

The Regular Meeting of the Planning Board of the Township of Upper Deerfield was held on Wednesday, January 18, 2012 at 7:08 P.M. in the Municipal Building, Seabrook, N.J.

Chairman Bruno Basile called the meeting to order and read the following notice:

This is a regularly scheduled meeting of the Planning Board of the Township of Upper Deerfield. In compliance with the "Open Public Meeting Act" a schedule of regular meetings containing the location and time and date of each meeting was approved at the Annual Organization Meeting of the Board, and within seven days following such Organization meeting, a copy of such schedule of regular meetings was posted in the Municipal Building at Seabrook, New Jersey, which Notice has remained so posted throughout the year, and copies of the schedule of regular meetings have been mailed to The News of Cumberland County and filed with the Township Clerk in compliance with said Act.

The regular meeting beginning at 7:07pm of the Planning Board followed the closing of the reorganization meeting.

**Present:**

Chairman: Bruno Basile

Vice Chairman: Ed Overdevest,

**Members:** Ernest Holt, Russ Vanella (arrived 7:40pm), Pauline Smith, Terry O'Neill, Scott Smith, Gene Stoms, Louis J. Bramante, Jr. Alt # 2, Anthony Buono, Sr. Alt # 3, Robert Comer, Alt # 4

**Staff:** Planner Randy Scheule, PP, AIC, Solicitor Theodore H. Ritter, Esq. and Matthew Ritter, Esq., Secretary Vicki Vagnarelli.

**Absent:** Edward Fleetwood, Jack Waselik alt # 1, Engineer Robert C. DuBois, P.E., (not mandatory for this meeting)

On motion of Ernest Holt, seconded by Pauline Smith minutes of January 9, 2011 reorganization and regular meeting was unanimously approved.

On motion of Ernest Holt, seconded by Pauline Smith the following Resolution was adopted & memorialized

RESOLUTION # 1-2012

**Township of Upper Deerfield Planning Board**

**Applicant's Name:** Rajmeen, LLC

**Property:** Block 1808, Lot 31  
54 Old Deerfield Pike

**Application No.:** #Z14-11

**Application:** Request for Interpretation and for Certificate of Non-conforming Use

**Public Hearing Hearing:** January 9, 2012

**Findings of Fact:**

1. Applicant was represented by Howard D. Melnicove, Esq., who appeared and presented the application on its behalf.

2. Applicant is the owner of Antonio's Deli, a business which has existed in the present R-3 residential zone since 1956. There is a dwelling house on the same lot as the delicatessen. Applicant now seeks to be permitted to rent the dwelling house to persons who are neither the owner of, nor who participate in the operation of the Antonio's Deli business.

3. The current owner sought a Certificate of Occupancy for the dwelling. The zoning officer referred applicant to the Planning Board respecting the change from owner occupied to non-owner occupied use of the dwelling.

4. The request for Interpretation and Certificate of Non-Conforming Use are contemplated in the Municipal Land Use Law N.J.S. 40:55D-70.b and NJS 40:55D-68, respectively.

5. The issue the Board must determine is whether the change from an owner occupied to non-owner occupied (leased) dwelling requires a use variance, or whether it is permitted within the scope of the existing, non-conforming use approvals and the municipal ordinances.

6. Applicant presented exhaustive information regarding the history of the use of the property which included:

- A. Upper Deerfield Township Development Application and Checklist.
- B. Howard D. Melnicove, Esq.'s letter of December 5, 2011.
- C. Upper Deerfield Township Zoning Board Resolution 1-1977.
- D. Multiple Upper Deerfield Township Committee Meeting Minutes, from 1976, and 1977.
- E. Upper Deerfield Zoning Board Resolution 1-1992.

7. The property contains a detached single-family dwelling with detached two-car garage, and the delicatessen building.

8. Upper Deerfield adopted its first zoning ordinance effective February 15, 1968. The delicatessen building existed and the business was operating at that time. It thus constitutes a pre-existing, non-conforming use.

9. The municipal tax records indicate that the existing residence building was constructed in 1952.

10. In January, 1977, the Upper Deerfield Zoning Board approved the expansion of the store and parking lot.

11. On April 7, 1977, the Upper Deerfield Township Committee, on recommendation of its Zoning Board, approved the expansion of the store and parking lot.

12. In February, 1992, the Upper Deerfield Township Zoning Board approved a further expansion of the business in the form of the addition of a walk-in freezer at the rear of the store.

13 The Board also received into evidence and considered applicant's "Exhibit

App-1 (1-9-12)" being four photographs of the premises, and the testimony of Rajmeen, LLC

managing member Biren Patel.

14. Traditionally, the dwelling unit served as a residence for the owner/operator of the store, however, nowhere in any of the historical record, is that owner/operator occupancy listed as a condition of a municipal approval.

15. No one appeared from the public to testify regarding the application.

16. Applicant has met its burden of proof respecting the legality of the pre-existing non-conformity.

The Board finds and determines that no municipal ordinance or prior municipal approval imposed the condition respecting this property requiring that the occupancy of the dwelling was limited to an owner or employee of the delicatessen business.

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Board of the Township Upper Deerfield that the application of Rajmeen, LLC for an Interpretation resulted in the finding that occupancy of the dwelling is not restricted to the owner or operator of the deli; and a Certificate of Non-Conformity is hereby granted, subject to the following conditions:

1. That compliance be had with all applicable requirements of the Upper Deerfield Township building code.

2. That there be no leasing of the residential structure for a term of less than month-to-month, (i.e. seasonal or transient tenancies are not permitted under the interpretation rendered herein by this Board.).

**BE IT FURTHER RESOLVED** that a Certified copy of this Resolution be furnished to applicant and Notice of this action be advertised as required by Law.

Upper Deerfield Planning Board

---

BRUNO A. BASILE, Chairman

ATTEST: \_\_\_\_\_  
VICKI VAGNARELLI, Secretary

Memorialized: January 18, 2012

**Roll Call**

Bruno Basile – Aye

Russell Vanella – no vote (came in late)

Pauline Smith – Aye

Terry O’Neill – Aye

Gene Stoms –a/no vote

Jack Waselik, Alt #1 – Absent

Anthony Buono, Sr., Alt #3 – no vote

Ed Overdevest – a/no vote

Ed Fleetwood – no vote

Ernest Holt – Aye

Scott Smith – Aye

Louis J. Bramante, Jr., Alt #2 – Aye

Robert Comer, Alt #4 - No Vote

Chairman Basile discussed Work Program/Schedule –Signs, Lighting, Redevelopment South, Duplexes, COAH, ... Randy will review current state status, confer with Township Solicitor Ted Baker and report on COAH in February. Report on Signs will also be done in February.

Chairman Basile requested a subcommittee from the Master Plan review committee consisting of Randy Scheule, Ed Overdevest and Robert Comer. Will be Open Space Subcommittee and they are to review buildable land/open space.

Vice Chair Overdevest asked if Board could see what has been approved and how long extensions can/will be. Mr. Bramante concerned about concrete barricade in front of business on 77. Is it legal?

Chairman Basile request Vicki get updates from Administrator on items sent to Township Committee that had no resolve.

Being no further business on motion of Ernest Holt, with all in favor meeting was adjourned at approximately 8:06pm.

Respectfully Submitted,

Vicki Vagnarelli  
Secretary