



BOROUGH OF EAST RUTHERFORD ZONING BOARD OF ADJUSTMENT SPECIAL MEETING MINUTES FEBRUARY 16, 2017

A special meeting of the East Rutherford Zoning Board of Adjustment was held on **February 16, 2017** at 7:00pm at the Borough Hall, located at 1 Everett Place, East Rutherford. The purpose of this special meeting was to continue the hearing of an application for 33 Route 17, LLC.

ROLL CALL

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| <input checked="" type="checkbox"/> Philip Alberta, Chairman | <input checked="" type="checkbox"/> John Giancaspro, Secretary |
| <input checked="" type="checkbox"/> Carmen Polifronio, Vice-Chairman | <input checked="" type="checkbox"/> Richard Cedzidlo, Attorney* |
| <input checked="" type="checkbox"/> Al Levy | <input checked="" type="checkbox"/> Mark Everett, Planner |
| <input checked="" type="checkbox"/> John Martin | <input checked="" type="checkbox"/> Arthur Senior, Engineer |
| <input checked="" type="checkbox"/> Richard Krajunus | <input checked="" type="checkbox"/> Martin Cedzidlo, Attorney* |
| <input checked="" type="checkbox"/> Gary Viccaro | |
| <input type="checkbox"/> Thomas Banca | |

Denotes in Attendance

*Martin Cedzidlo was the acting attorney until the Board's Attorney Richard Cedzidlo arrived at 9:17pm.

The meeting was called to order at 7:15pm by Chairman Alberta, followed by the Pledge of Allegiance.

APPROVAL OF MINUTES

N/A

HEARING OF APPLICANTS

DOCKET #16-009

HPVIII 33 Route 17, LLC

33 Route 17 South

Block 88, Lot 1 & 1.0

Application for Conditional Use Approval and Preliminary and Final Site Plan Approval

Mr. Thomas Bruinooge, Attorney for the Applicant, reintroduced the application before the Board. He started by noting that an exhibit introduced at the last meeting was not marked. He asked that the Photo Simulation presented at the previous meeting be marked as Exhibit A-37.



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Mr. Brett Skapinetz of Dynamic Engineering, Engineer for the Applicant, displayed Exhibit A-37 and explained it was a photo simulation of the application from the southwest corner looking to the northeast. He noted that the simulation superimposed the Applicant's proposed building in a view from the intersection of Paterson Avenue and Jane Street.

Chairman Alberta asked that before the cross examination proceed that Mr. Bruinooge once again summarize the application and variances being sought. Mr. Bruinooge agreed, and noted that because Mr. Banca was not in attendance, he would request no formal vote be taken on the application until the full Board was in attendance, and Mr. Banca be provided the opportunity to listen to a recording of the meeting so he could participate in the vote.

Mr. Bruinooge continued by stating that the application was submitted and originally heard in June, however, it was withdrawn in the same meeting by the Applicant. Following the withdrawal, a new application was submitted and revised plans were provided with a revision of November 2016. The application is for a self-storage facility located at 33 Route 17, located in the Regional Commercial District. The self-storage use is a conditional use, allowed by the ordinance and relief was being requested for the following conditions:

- The New Jersey Department of Transportation will not allow ingress and egress on to Route 17, and therefore, requires a variance to exit on to Paterson Avenue, creating the need for a variance.
- There are three parking spaces that are within a 20 feet distance of the Right-of-Way of Route 17's Ramp G, and therefore not in compliance with the zoning regulation.
- The application requests five wall signs, where only four are permitted. He noted that the signs do not individually exceed the permitted square footage.
- The height of the proposed fencing is six feet, where the maximum height allowed is four feet.
- The height of the retaining wall that holds Paterson Avenue in place also exceeds the four feet maximum.
- If the Board requires a loading space, the applicant would seek a variance as the application provides loading spaces near the storage units that have exterior roll-up doors.

Mr. Robert Inglima, Attorney for Kzertbas, Inc. came forward to continue cross examination of the Applicant's witnesses. He requested the opportunity to continue his examination starting with the Applicant's representative, Donald J. Engels of the Hampshire Companies.

Mr. Inglima proceeded with a series of questions to Mr. Engels regarding the application.



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Mr. Inglima asked about the ownership structure of the Applicant, to which Mr. Engels explained that it is a complicated ownership structure with investors and Hampshire Companies having direct control over the Applicant, and no entity owned exceeded 10% ownership.

Mr. Inglima requested information related to the environmental conditions on the site and who the responsible party is for remediation, dewatering, fill, and soils on site. Mr. Engels responded he did not all the specific details of the environmental conditions, but confirmed that the Applicant was responsible for remediation, dewatering, fills, and soils.

Mr. Inglima asked if the Applicant was aware of the environmental issues on the site at the time of purchase and if any reports or statements were completed. Mr. Engels responded that the Applicant was aware of the environmental issues and reports were developed. Mr. Inglima asked if those reports were submitted to the Borough, to which Mr. Engels responded he was unsure if they were submitted as part of the application.

Mr. Inglima questioned if the Applicant had engaged the Borough's Mayor and Council regarding proposed language or suggestions related to the ordinance allowing self-storage facilities. Mr. Engels stated that there were no specifics, but a general concept was proposed. He noted that he was not familiar with the actual process of doing so.

Mr. Inglima asked about the demolition of existing structures and the macadam involved. Mr. Engels responded that the demolition was complete and the macadam was removed from the site and disposed of.

Mr. Inglima asked about the status of the dewatering activities on site, to which Mr. Engels stated that dewatering took place during demolition because the drainage was inadequate. He noted the water was pumped off site.

Mr. Inglima asked if any remediation had taken place on site. Mr. Engels explained that contaminated concrete was removed and disposed of.

Mr. Inglima asked if a Remedial Action Work Plan or any other remediation document had been submitted to the New Jersey Department of Environmental Protection (NJDEP), and if the Applicant had retained to a Licensed Site Remediation Professional (LSRP). Mr. Engels stated he was unaware if anything was submitted to the NJDEP, and noted that the Applicant has retained Rebecca Hollander of TRC Corporation as a LSRP.



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Mr. Inglima asked if there had been any discussions between the Applicant and the NJDEP regarding limitations and/or restrictions, to which Mr. Engels noted that they had and he was unaware of any limitations or restrictions.

Mr. Inglima asked if the Applicant had considered using the existing structures on the site as part of its proposed use. Mr. Engels noted that the Applicant had initially considered re-use of the building known as “The Landmark,” but decided against it due to business reasons.

Mr. Inglima asked if there was any information obtained from the New Jersey Department of Transportation (NJDOT) regarding vehicle use, and entering and exiting. Mr Engels responded no information was obtained.

There was a discussion related to the relevancy of Mr. Inglima questioning aspects of the application that had been first submitted, but removed and reflected on the November 2016 plans. After arguments from Mr. Inglima and Mr. Bruinooge, and input from Mr. M. Cedzidlo and the Board’s Engineer, the hearing was moved forward with the understanding that the proceedings should continue based upon the current version of the plans, and not plans that were withdrawn. Mr. Inglima followed up by questioning if there was a particular plan to develop the remainder of the site in the future, and if there were any leases or agreements already in place. Mr. Engels responded that there were no plans for future developments and no agreements in place.

Mr. Inglima asked about the business agreement between Hampshire Companies and Extra Space Storage, along with the practices of researching profitability of locations, and the history of the company’s success. Mr. Engels explained that there was no formal agreement between Hampshire Companies and Extra Space but there was an oral agreement based on a long-standing relationship between the companies. He explained that Extra Space only does a profitability analysis when it pertains to purchases, but Hampshire Companies had and felt the site will support the self-storage use. He noted that in 20 years of experience there had been no failures.

Mr. Inglima asked if any applications had been filed with the County of Bergen. Mr. Engels was unaware of any filings.

Mr. Inglima asked if any applications were filed with NJDOT, to which Mr. Engels responded there was an application related to drainage which could be elaborated on by the Engineer.

Mr. Inglima asked if there were any arrangements or agreements with adjacent property owners related to access, common driveways, or drainage. Mr. Engels stated there were none that he was aware of.



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Following completion of Mr. Inglima's cross examination, Mr. Bruinooge asked Mr. Engels if he was aware of the ordinances of the Borough and the hours of operations restrictions. Mr. Engels stated he was aware and that the facility would comply.

Mr. Polifronio moved to open the meeting to the Public. The motion was seconded by Mr. Martin and all members of the Board were in favor.

Mr. Charles Flenner, Jr., residing at 387 Paterson Avenue, and President of the East Rutherford Fire Department came forward to ask questions related to the site plan and access for the Fire Department. Mr. Flenner was asked to hold his question until the Engineer was available for cross examinations, to which he agreed.

Mr. Sergio Segalini of 39 Jane Street came forward to ask questions of Mr. Engels. Mr. Segalini asked Mr. Engels if he was aware that the application would require a variance before application, and why no research was done before submission. Mr. Engels responded that he was not aware a variance would be required and noted that in retrospect additional research should have been conducted.

Mr. Segalini asked why the application was originally withdrawn. Mr. Engels explained that based on the objection at the first hearing, the Applicant chose to withdraw the application and resubmit with only the self-storage facility.

Mr. Segalini asked about the approximate size of the proposed building, to which Mr. Engels responded he was not certain with the actual dimensions but noted it was 96,000 square feet.

Mr. Segalini asked if the Hampshire Companies was a good neighbor, to which Mr. Engels responded yes.

Mr. Segalini asked if the Applicant's construction contractors were aware of the hours they were restricted to operate. Mr. Engels stated that no construction was underway, but they would comply with the hours of operations regulation.

Mr. Segalini stated that there has been recent work on the site occurring as early as 6:15am, and a pump that operated on January 12th throughout the night. Mr. Engels explained that he was aware of an emergency type situation of water that needed to be removed from the site, but was not aware of the early morning work. He apologized for the disruption and noted that the contractors will comply with all ordinances going forward.



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Mr. Segalini asked if Mr. Engels recalled the request to evaluate the building for a green roof and whether he believed it was a good idea. Mr. Engels responded he did not think it was a good idea.

A motion was made by Mr. Levy, seconded by Mr. Martin to close the meeting to the Public. All were in favor.

The Chairman called for a short recess.

Following the recess, the Board reconvened the hearing and Mr. Inglima requested the opportunity to cross examine the Applicant's engineer.

Mr. Brett Skapinetz of Dynamic Engineering came forward to provide testimony.

Mr. Inglima and Mr. Skapinetz discussed Exhibit A-37 previously described in the meeting and identified that Mr. Skapinetz mistakenly reversed the direction of vantage point. Mr. Skapinetz confirmed that the view was from the northwest to the southeast, a view from the intersection of Jane Street and Paterson Avenue.

Mr. Inglima compared Exhibit A-22, the Site Plan, to A-37 and asked Mr. Skapinetz to explain why the "saw toothed" façade of the building was not visible on A-37. Mr. Skapinetz responded that based on the angle of A-37's vantage point, the façade feature would not be visible. Mr. Inglima asked if Mr. Skapinetz's firm had prepared the exhibit, to which he responded they had not but he was familiar with the process used.

Mr. Inglima asked Mr. Skapinetz if there were any further revisions to the site plan of November, and if he was involved in the design aspects of the site plan. He also asked Mr. Skapinetz to provide what was submitted to the Board. Mr. Skapinetz responded that there were no changes to the plan since November and he had been involved in the design of the plan. He noted that he believed the following items were submitted to the Board:

- Site Plan
- Drainage Plan
- Site Survey
- Traffic Summary

Mr. Inglima asked if a Phase I Study was submitted to which Mr. Skapinetz responded no.

There was a discussion regarding the admission of a Stormwater Management Plan dated June 2016. After objection by Mr. Bruinooge and discussion between Mr. Inglima, Mr. Bruinooge, and Mr. M. Cedzidlo, the report was entered as Exhibit O-4.



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Mr. Inglima asked Mr. Skapinetz about his involvement involving Exhibit O-4, the areas included in calculating coverage, and the documentation that was used to support preparation of the plan. Mr. Skapinetz explained that he was involved in preparation of the plan and it included areas proposed in the current application, with no consideration of future development. He noted that the survey was used to support the plan's development and incorporates utilities that were noted on the survey. Mr. Inglima asked if Dynamic Engineering had conducted any independent investigation related to storm drains, basins, etc, to which Mr. Skapinetz replied that they relied on documentation provided to them. Mr. Inglima asked what the notation "UNOBT" referenced on the plans. Mr. Skapinetz responded it denotes drainage assets where information was unobtainable.

Mr. Richard Cedzidlo, Attorney for the Board, entered the meeting at 9:17pm and relieved Mr. Martin Cedzidlo.

Mr. Inglima introduced Exhibit O-5, an enlarged marked copy of Sheet 7 indicating drainage assets on the site. Based on Mr. Inglima's questions, Mr. Skapinetz confirmed that the water drained via a 36-inch pipe which crossed Route 17. Mr. Skapinetz responded further that he believed that there would be additional tie ins from other sites, but it was beyond the scope of his work to study the entire system and his focus was to service the site of the application.

Mr. Inglima asked Mr. Skapinetz to show where the existing pump on the southwest corner of the property pumped to. Mr. Skapinetz stated that he was unsure exactly the direction water flowed to, but believed it ended up tying into an existing inlet on Paterson Avenue.

Mr. Inglima asked if a majority of the stormwater would be captured on-site via catch basins and piping into a basin in the eastern corner of the site. Mr. Skapinetz responded that was correct. Mr. Inglima asked Mr. Skapinetz to explain how the basin size was calculated and designed, to which Mr. Skapinetz responded that the basin was designed to choke back water from running to Route 17. He further noted even the Paterson Avenue inlets ultimately lead back to the same line the water would run to when draining towards Route 17. He explained he verified this through the NJDOT.

Mr. Skapinetz explained that Stormwater Management Plan created in June highlighted the requirements of the site for the original application and he further explained how he determined the appropriate strategy to manage run off from the original proposed site. He noted that although the application had been modified to include only the self-storage facility, the drainage plan remained as initially designed, thereby creating better stormwater management for the site as proposed as is, and any development that may be proposed in the future.



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Mr. Inglima asked if there was any water coming on site from Paterson Avenue, to which Mr. Skapinetz responded he did not believe so do to existing curbing and off-site drainage assets.

Mr. Inglima asked a series of questions related to the design of the on-site basin and elevations. He provided copies of the construction details of the basin (Sheet 13 of the Site Plan) to the Board members to assist in visualizing his questions. The document was marked as Exhibit O-7. Mr. Skapinetz responded to Mr. Inglima's questions by explaining the basin design, its specifications, and the method used in designing it, which he noted was in compliance with the NJDEP requirements. Chairman Alberta asked the Board Engineer, Mr. Senor, if the process explained by Mr. Skapinetz was accurate, to which he responded that it was satisfactory, however, he would defer to the State authorities to provide final approval regarding the drainage plan for the site.

Mr. Inglima asked Mr. Skapinetz if an application has been made to NJDOT and if any response was received. Mr. Skapinetz responded that an application had been submitted and remains under review. He noted there has only been verbal conversations with NJDOT review staff.

Mr. Inglima asked if an application had been submitted to the NJDEP, to which Mr. Skapinetz responded a Flood Hazard Application had been filed.

Mr. Inglima asked if Whitestone Associates was involved in remediation, to which Mr. Skapinetz was unaware. Mr. Inglima asked if Dynamic Engineering was involved, and Mr. Skapinetz responded they were not.

Mr. Inglima asked if Mr. Skapinetz had received any information from the Applicant's LSRP to which Mr. Skapinetz stated he was not aware of any. Mr. Inglima asked if Dynamic Engineering had provided any information to the LSRP and Mr. Skapinetz stated they had not.

Mr. Inglima asked if any information was submitted to Bergen County, to which Mr. Skapinetz said yes that had been completed within the past 60 days. Mr. Inglima asked what version of the plans were provided to Bergen County and Mr. Skapinetz said it was the November revision. Mr. Inglima asked if any correspondence had been received from Bergen County to which Mr. Skapinetz responded a letter related to details pertaining to the Right of Way improvements was received by his firm.

A letter dated January 29, 2017 from Bergen County to the Applicant was marked as Exhibit A-38. Mr. Inglima asked questions related to the letter regarding the driveway profile and the proposed egress from the site. Mr. Skapinetz explained using Exhibit A-21 that vehicles leaving the site will exit via the Paterson Avenue driveway and turn right to travel east. He further



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explained that motorists needing to go west would have to travel in the same direction to the jug handle at Murray Hill Parkway in order to turn around and head west.

Mr. Inglima asked Mr. Skapinetz if he had provided Bergen County with any details related to the driveway, and furthermore if the comments noted in the Board Planner's review letter, dated November 16, 2016 were addressed regarding driveways within 200 feet. Mr. Everett noted that he would defer those issues to the County for review and approval.

Mr. Inglima asked if information regarding the spacing between driveways was provided to NJDOT. Mr. Skapinetz responded that no formal application had been made to NJDOT.

Mr. Inglima asked about vehicle circulation of the site, to which Mr. Skapinetz responded he had completed an analysis of a typical, small moving truck and a larger version as well, and there were no issues regarding circulation. Mr. Inglima followed up asking if larger vehicles, such as tractor trailers were taken into consideration. Mr. Skapinetz explained that those trucks were not expected on site and were not typical in visiting a self-storage space, therefore, they were not considered in designing the application.

Mr. Inglima asked if Mr. Skapinetz planned to submit any information regarding existing contours. Mr. Skapinetz responded that he did not plan to submit any additional information because the survey was completed and contour information from the survey was depicted on the grading plan.'

Mr. Inglima asked about the proposed landscaping of the area that may be developed in the future. Mr. Skapinetz responded that the area would be grass.

Mr. Inglima referred to Sheet 6, depicting the grading plan, and asked if there are any areas along the retention basin where water can travel across Lot 2 on to the site. Mr. Skapinetz stated that he did not believe so.

Mr. Inglima asked about the retaining wall on the site, to which Mr. Skapinetz stated that the wall was on the adjacent property and only a couple of feet in height. He was not aware of the composition of the wall and did not plan any activities that would affect its integrity.

Mr. Inglima concluded his cross examination of the Engineer and requested copies of the documents provided to the NJDEP, NJDOT, and Bergen County. Mr. Cedzidlo stated that the documents were not necessarily needed by the Board, and any approval would be condition of approval. Mr. Inglima followed up stating that he believed the drainage report provided to the NJDOT be submitted to the Board Engineer for review. Mr. Bruinooge felt that it was not necessary as the Board professionals had already deferred to NJDOT and NJDEP. Mr. Cedzidlo



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stated the Applicant should provide the reports for review and if there was an issue identified by the Board professionals, it could be brought to the Board's attention.

Due to the lateness of the hour, Mr. Polifronio moved to hold cross examination by the Public until the next meeting. Mr. Martin seconded the motion. All were in favor.

Chairman Alberta requested that the Applicant's architect be present at the next meeting. Mr. Bruinooge acknowledged the Chair's request.

Chairman Alberta announced that the application would be carried for further hearing until March 2, 2017 at 7:30pm. He announced to the Public that there would be no further notice provided.

With no further business before the Board, a motion was made by Mr. Martin, seconded by Mr. Krajunus to adjourn the meeting. All were in favor.

Minutes By:
John Giancaspro
Secretary

A transcript of the hearing for 33 Route 17 was prepared by Certified Court Reporters and will be kept on file with the Zoning Board of Adjustment's application file.