



BOROUGH OF EAST RUTHERFORD ZONING BOARD OF ADJUSTMENT SPECIAL MEETING MINUTES MARCH 15, 2017

A special meeting of the East Rutherford Zoning Board of Adjustment was held on **March 15, 2017** at 7:30pm at the Borough Hall, located at 1 Everett Place, East Rutherford. The purpose of this meeting was to hear the application of HPVIII 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 Senor, Engineer |
| <input checked="" type="checkbox"/> Richard Krajunus | |
| <input checked="" type="checkbox"/> Gary Viccaro | |
| <input checked="" type="checkbox"/> Thomas Banca | |
| <input checked="" type="checkbox"/> Derek Sands, Alternate Member | |

Denotes in Attendance

The meeting was called to order by Chairman Alberta, followed by the Pledge of Allegiance.

APPROVAL OF MINUTES

APPROVAL OF MINUTES OF MARCH 15, 2017						
MEMBER	MOVED BY	SECOND	AYE	NO	ABSTAIN	NOT PRESENT
Alberta			X			
Polifronio			X			
Levy			X			
Martin			X			
Krajunus	X		X			
Viccaro			X			
Banca		X	X			

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. Robert Inglima, Attorney for Ksertbas, Inc. continued his examination of his witness, Mr. Hal Simoff.

Mr. Simoff testified that he had concerns over the designed drainage due to the positioning of the retention basin and felt it was positioned in a low spot on the site. He further stated that he believed the piping to the basin would fill at a greater rate than the basin could accommodate and the overflow would flow on to the adjacent property. He noted his observations were based on his review of the original plans, and noted he did not have an opportunity to review the most recent revision.

Mr. Simoff explained that he also reviewed the site for access and circulation of the Borough's fire apparatus. He testified he did not feel the site was designed adequately to accommodate a 46-foot fire truck.

Mr. Simoff testified that the 96,000-square foot facility will attract a variety of tenants, including business owners, single-family home owners, and goods would likely be transported via moving vans and trucks. He noted that articulating trucks would not be able to access the site as designed.

Mr. Simoff explained that he believed that the residential neighborhoods would be impacted by the site, as traffic requiring access to the Route 17 South would be required to travel through the areas.

Mr. Inglima submitted Exhibit O-17, the Applicant's notice of hearing for the meeting held on February 2, 2017.

Mr. Simoff provided testimony related to the fence variance requested, explaining that the applicant sought to install a six foot fence, where only four feet was permitted. He also explained that the Applicant sought to install five wall signs, where only one is allowed.

Mr. Simoff pointed out that while a 20 foot setback for the parking area is required, only six feet was being provided, and there was no established off street loading zone, as required.

Mr. Inglima submitted O-18, a picture of an Extra Space Self-Storage facility in Hackensack, NJ. Mr. Bruinooge objected and the exhibit was submitted and marked for identification purposes only. Mr. Simoff provided testimony related to the facility stating that it was located at 260 East Railroad Avenue in Hackensack and in his opinion emulated an office building or a multi-family residential

building. He noted that the aesthetics were promoted through the use of a mix of metal clapper and brick veneer, along with a peaked roof. He explained that the building was constructed to blend in with the residential area. He further noted that the roll up access doors were separated and resembled a residential garage door, and a separate building on-site was constructed to resemble a garage.

When asked by Mr. Inglima how he was aware that the facility was a self-storage facility, Mr. Simoff stated only by the two signs provided on the building.

Chairman Alberta asked Mr. Simoff what was in the ancillary garage structure, but Mr. Simoff was not aware of its contents. He noted it was one story in height with roll-up doors, a peaked roof and separated from the main building.

Mr. Simoff explained that he felt the design of the site did not meet the criteria of the established ordinance for self-storage facilities. He noted that the ordinance was relatively new and the Applicant failed to meet the criteria of aesthetics and architecture, and had issues with location and access. He further stated that the zone is a highway commercial zone and should be developed properly with ingress and egress via the highway, not through the residential area.

Mr. Simoff read from Exhibit O-19, the Borough's Reexamination and Master Plan Update dated 1997, and noted that the document pointed out the heavy traffic along Paterson Avenue and Hackensack Street and discouraged development. He stated that he felt the Applicant did not provide a site consistent with this report, specifically in regards to maintain and preserving the residential neighborhood and its quality.

Mr. Simoff continued noting that the proposed fence height was higher than what was allowed, but less critical of an issue. He noted that Fire Department access to the site would be limited and would hinder emergency response.

Mr. Simoff explained that the five signs proposed were of poor design and would have a negative impact on the residential area. He noted that the visibility of roll up doors would also have a negative impact to the neighborhood.

Mr. Simoff testified that the site could be more appropriately designed to allow for a parking area that is in compliance with ordinance.

Mr. Inglima asked Mr. Simoff if he felt the site was suitable for this development. Mr. Simoff responded that if the aesthetics and design of the building were different, and ingress and egress were provided via Route 17, the site would be more suitable for the self-storage facility.

Mr. Polifronio noted his opinion that any building could emulate an office building, dependent upon the observer's opinion. He noted that the ordinance was giving examples and subjective in nature.

Chairman Alberta asked Mr. Simoff how many doors were visible from the residential area. Mr. Simoff stated that based on the grading plan, he believed all doors would be visible on the west side of the building because of the grade and angle.

Following the conclusion of Mr. Simoff's testimony, the Board took a brief recess.

Chairman Alberta called the meeting to order after a short recess and asked Mr. Bruinooge if he wished to cross examine Mr. Simoff. Mr. Bruinooge came forward for cross examination.

Mr. Bruinooge asked Mr. Simoff how long he had been retained by the Ksertbas, Inc., the number of meetings he had attended, and which documents he had reviewed in preparation of his testimony. Mr. Simoff explained that he was retained in February and attended the March 2nd meeting. He noted that he reviewed the Stormwater Management documents submitted by the Applicant, dated June 2016.

Mr. Bruinooge asked Mr. Simoff a series of questions related to the proposed drainage of the property, specifically as it related to the flood maps provided in Exhibits O-10-A and O-10-B. Mr. Bruinooge asked if Mr. Simoff believed if the site was in a tidal flood area, to which Mr. Simoff responded yes. Mr. Bruinooge asked if Mr. Simoff was familiar with the New Jersey Department of Environmental Protection's regulations on Tidal Flood Areas. Mr. Simoff stated he had general knowledge related to the regulations, but not the specifics of the regulations as they pertain to the application.

Mr. Bruinooge asked Mr. Simoff if he was aware of any part of the Borough's ordinance that restricted vehicular egress from the site on to Route 17. Mr. Simoff stated that it did not.

Following Mr. Bruinooge's testimony, Chairman Alberta announced that the Public could cross examine Mr. Simoff if they wished to. No member of the Public came forward.

A motion was made by Mr. Krajunus, seconded by Mr. Viccaro to open the meeting to the Public. All were in favor.

Mr. Charles Flenner, Jr. of 387 Paterson Avenue came forward representing the East Rutherford Fire Department. Mr. Flenner noted that the Fire Department has concerns over the ingress and egress of the site, and requested that additional considerations be made to ensure adequate circulation of the site by fire apparatus, establishment of fire lanes, and a fire hydrant be installed on site, in close proximity to the building's sprinkler fire department connection.

Mr. Krajunus asked if all fire apparatus would be required to respond to the site, to which Mr. Flenner explained it would be based on the nature of the emergency.

Mr. Levy asked Mr. Flenner how large the driveway would have to be for adequate access, and if the concrete "porkchop" area hindered Fire Department access. Mr. Flenner stated that the Fire Department would require a 20-foot fire lane and the ability to freely navigate the site. He noted that subsoil systems would be helpful for emergency egress. Mr. Senor stated that he spoke with

the Applicant about making such adjustments and the Applicant was accepting of the modifications, if required. Mr. Krajunus asked if the Applicant would stipulate to such condition, to which Mr. Bruinooge responded affirmatively.

Mr. Myron Miland of 67 Paterson Avenue expressed his concern that by granting the applied for egress variance would have an impact on future development. Chairman Albert explained this application would be weighed on its own merit, and any future development would be required to come before the appropriate Board. Mr. Miland concluded his statement by noting that the hours of the operation during construction and business operations will likely be disruptive to the neighborhood.

Mr. Chad Perry of 34 Jane Street thanked the Board for their time and efforts in hearing the application and the concerns of the Public. He explained that he firmly opposed the application based on his opinion that it would degrade the neighborhood and violate the Borough’s Master Plan. He further stated his concerns for pedestrian and traffic safety created by the ingress and egress to the site. He concluded by stating that approval of the application would set a bad precedent for future applications and new tax ratables should not be an acceptable reason to violate the Borough’s code.

Mr. Sergio Segalini of 39 Jane Street came forward and thanked the Board for their time. Mr. Segalini stated that he has been attending the meetings since November 3rd and reiterated a number of concerns he had during cross examination proceedings. He further referenced a series of newspaper articles and a timeline of events. He voiced concerns over how the ordinance and application process was handled. He concluded that he felt the proposed use was not appropriate for the other area, and there are other options to develop the site into.

Mr. Antonio Segalini of 39 Jane Street thanked the Board for their time and voiced his concerns over the design and look of the Application’s building. He explained that the building did not resemble an office building and would have a negative impact on the neighborhood. He noted that the lighting and aesthetics of the site were not consistent with East Rutherford, and felt that the Board should not approve the application.

Mr. Levy moved to close the hearing to the Public. Mr. Martin seconded the motion and all were in favor.

Mr. Bruinooge summarized the application and asked that the Board first consider the waiver of a submittal of the Project Impact Assessment (PIA), and noted that he felt such requirement was fulfilled through previous testimony. Mr. Polifronio moved to waive the PIA requirement.

ROLL CALL						
MEMBER	MOVED BY	SECOND	AYE	NO	ABSTAIN	NOT PRESENT
Alberta			X			
Polifronio	X		X			

Levy			X			
Martin		X	X			
Krajunus			X			
Viccaro			X			
Banca		X	X			

The motion to waive the PIA requirement was approved.

Chairman Alberta asked Mr. Senor if he had any concluding comments regarding the application. Mr. Senor stated that the application was removing an eyesore site from the Borough, improving drainage conditions, and improving traffic conditions, in comparison to the former use. He felt the variance related to egress could be granted because it improved previous conditions and made safer conditions for the area.

Mr. Everett commended the Applicant for its diligence in seeking to improve the site and the effort put forward towards the application. He further noted that should the application be approved, the Fire Department's concerns be addressed on the site plan as a condition of such approval.

Mr. Cedzidlo summarized the conditions being considered for approval by the Board, including a conditional use, setback for parking area, and establishment of an off-street loading zone.

Mr. Krajunus moved to approve the application with the requested variances and stipulations set forth in testimony.

ROLL CALL						
MEMBER	MOVED BY	SECOND	AYE	NO	ABSTAIN	NOT PRESENT
Alberta			X			
Polifronio		X	X			
Levy				X		
Martin				X		
Krajunus	X		X			
Viccaro			X			
Banca				X		

The motion required 5 affirmative votes, therefore, the motion failed to pass.

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

Minutes By:
John Giancaspro
Secretary