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# BOROUGH OF EAST RUTHERFORD ZONING BOARD OF ADJUSTMENT MEETING MINUTES APRIL 6, 2017

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A meeting of the East Rutherford Zoning Board of Adjustment was held on **April 6, 2017** at 7:00pm at the Borough Hall, located at 1 Everett Place, East Rutherford.

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## 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"/> Gary Viccaro                     |  |
| <input checked="" type="checkbox"/> Thomas Banca                     |  |
| <input checked="" type="checkbox"/> Derek Sands, Alternate Member    |  |

*Denotes in Attendance*

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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			<b>X</b>			
Polifronio	<b>X</b>		<b>X</b>			
Levy			<b>X</b>			
Martin			<b>X</b>			
Krajunus		<b>X</b>	<b>X</b>			
Viccaro			<b>X</b>			
Banca			<b>X</b>			

**APPLICATIONS**

**RESOLUTION 17-02(R)**

**DOCKET #16-009**

**HPVIII 33 Route 17, LLC**

**33 Route 17 South**

**Block 88, Lot 1 & 1.01**

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

Before the Board was Resolution #17-02(R), memorializing the Board’s action to not allow construction of a self-storage facility on Block 88, Lots 1 and 1.01.

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

**DOCKET #17-002**

**Application for Approval of Change of Use and Site Plan Waivers**

**Titan Restoration, Inc.**

82 Herman St

Block 43, Lot 20

Chairman Alberta announced to the Public that the application for 82 Herman Street would be carried until the May 4<sup>th</sup> meeting, with no further notice requirements.

**DOCKET #16-008**

**Application for Approval of Change of Use with a D-1 Use Variance and Site Plan Waivers**

**94-96 Carlton Avenue, LLC**

94-96 Carlton Avenue

Block 18, Lot 6

Mr. David Crook, Attorney for the Applicant, came forward to introduce the application and submitted the following exhibits for the application:

- A-1. Application

- A-2. Tax Collector Certification
- A-3. Proof of Publication and Mailing
- A-4. Site Survey
- A-5. Architectural Plans
- A-6. Notes of the Professional Planner
- A-7. Review of the Borough's Special Monitor
- A-8. Initial Review of Remington, Vernick, and Arango
- A-9. Completeness Letter from Remington Vernick, and Arango
- A-10. Second Proof of Notice
- A-11. April 6<sup>th</sup> Letter of Remington, Vernick, and Arango
- A-12. License Agreement for use of the Right of Way

Mr. David Crook introduced the application, explaining that the Applicant sought to add on to an existing mixed use building, which currently includes a commercial space and two apartment units. He further explained the Applicant sought to remove the commercial space and create a third apartment unit the commercial space. He noted that the application would require a use variance and the design of the building continued to protrude into the Right of Way, which was an existing condition, memorialized through a License Agreement.

Mr. Sam Awad, Architect for the Applicant, was sworn in to provide testimony related to the application. Mr. Awad explained that the applicant sought to convert an existing commercial space on the first floor to an apartment unit, and place a second floor addition on the building. He noted that the parking requirement would be reduced and the Applicant would provide six parking spaces including a handicap space, where five spaces are required.

Mr. Award explained that the footprint of the building would not change and would continue to encroach into the Right of Way by approximately one foot. He noted that the addition would blend into the character of the rest of the area and would not be detrimental.

Mr. Award presented the proposed floor plan and provided an explanation of the apartment units, stating that the existing apartments are two-bedroom units and the new unit would be a three-bedroom.

Mr. Viccaro asked why the building could not be removed from the Right of Way by reducing the footprint of the building. Mr. Crook explained that the area that encroached was part of the building's foundation and existing condition allowed by the License Agreement.

Mr. Levy asked what the difference was between this application and previous applications the Applicant had submitted to the Board. Mr. Awad was not familiar with those applications by noted that the current application improved conditions. Mr. Crook noted that previously a four-unit request was made, and prior to that application, he was not aware.

Mr. Martin asked where the entrance to the new apartment would be. Mr. Awad explained that the new unit would have an entrance door on the side of the building and existing units would continue to enter from an existing rear entrance. Mr. Banca asked about the size of the setback at

the entrance door. Mr. Awad explained it was irregularly shaped and the setback ranged from 3.37 feet to five feet, but provided enough space for access.

Mr. Polifronio asked about the square footage of the units. Mr. Awad explained that the existing square footage was approximately 2,052 square feet, and an additional 1,100 square feet would be converted and created by the application.

Mr. Viccaro asked for details related to the proposed deck in the rear. Mr. Awad explained the deck would be built on top of the first floor roof area.

Mr. Polifronio asked about the parking area and if the configuration would change based on the application. Mr. Awad explained that the current conditions of the parking lot would remain and be adequate for a vehicle to enter and exit. He noted that due to irregular shape of the parking area and presence of the building, maneuvering two vehicles can be difficult.

Mr. Mark Everett, Planner for the Board, asked if any screening would be provided to prevent spillover of light from vehicles. Mr. Crook stipulated that the Applicant would stipulate to landscaping or fencing to prevent light spillover on neighboring properties.

Mr. Viccaro expressed concern with the slope of the rear of the property and the potential for drop off. Mr. Crook stipulated that the Applicant would provide a fence or guardrail to prevent drop off.

Mr. Krajunas asked about the amount of impervious area on the site. Mr. Awad stated that the impervious surface on the site was 70%, but would not change based on the application.

Mr. Viccaro asked about basement access, to which Mr. Awad explained that access would continue via existing outside doors.

Mr. Viccaro asked for additional details on the addition. Mr. Awad explained that the addition would extend seven feet on top of the existing first floor and the deck would be in the rear on top of the existing first floor. He noted that there would be no additional basement area.

Chairman Alberta asked about garbage and recycling storage. Mr. Crook explained refuse would continue to be stored on the site as it is currently, and storage would be increased to accommodate the additional apartment unit.

Mr. Eric Torres of 800 Park Avenue, Fort Lee, representing the Applicant, came forward to clarify details about the site. He explained that the building has a basement on its right side and a crawl space under the existing commercial space. He also noted that a fence with privacy slats was already in place in the rear of the property.

Mr. William Stimmel came forward to provide planning testimony regarding the application. Mr. Stimmel testified that he had conducted a planning analysis of the zone and reiterated that the application requires a D-1 variance. He expressed his opinion that the site is suitable for the

proposed development and would remove an existing, non-conforming use. He noted that the site provided adequate parking, promotes general health, safety, and welfare, and will provide an aesthetic improvement to the area.

Mr. Stimmel further testified that he felt there would be no substantial detriment to the area, emphasizing that the application removed a non-conforming use from the zone, as well as the need for a variance for parking.

Mr. Banca asked about the applicability of current building and fire codes related to the application. Mr. Stimmel stated that the application would have to conform to all applicable codes and would be registered with the State Department of Community Affairs, unless owner occupied.

Mr. Viccaro asked if the application would require County approval, to which Mr. Stimmel stated it would be submitted to the County for review.

Mr. Krajunus expressed concern with no setback for a residential use. Mr. Crook noted that it is not uncommon to see residential units coming to the property line, and in this case it was an existing condition that could not be removed. He further noted that the door to the unit would be on the side of the building, rather than the front. He explained that the Applicant would stipulate to provide all engineering data, as requested by Mr. Senor, the Board's Engineer.

Mr. Banca stated that he felt the application would be a good opportunity to remove the building from the Right of Way, and increase pedestrian safety. After a lengthy discussion about possible design alternations, Mr. Crook stipulated that the Applicant would draw back the corner of the building approximately two feet to remove the encroachment into the Right of Way.

Mr. Polifronio moved to open the meeting to the Public. Mr. Vicarro seconded the motion and all were in favor.

Mr. Charles Flenner, Jr. of 387 Paterson Avenue appeared before the Board on behalf of the East Rutherford Fire Department.

Mr. Flenner asked where the utilities were located, to which Mr. Torres responded they were located in the basement.

Mr. Flenner noted that he believed the change in use would require sprinkler protection in the building. He also explained that the Fire Department would like to review the location of any sprinkler control valves and the location of the Fire Department connection. Mr. Flenner concluded requesting that a fire lane be established on the side of the building to prevent parking against the building. Mr. Awad noted that review of the locations and incorporation of the fire lane could be accomplished.

Mr. Levy moved to close the meeting to the Public. Mr. Viccaro seconded the motion and all were in favor.

Mr. Krajunus moved to approve the application with the stipulations discussed, including (1) redesign of the building to remove it from the Right of Way, (2) adoption of the resolution after follow up materials are submitted for review to Remington, Vernick, and Arango, (3) location of the Fire Department Connection is provided, (4) there be no parking on the side of the building, and (5) appropriate landscaping be provided for screening. Mr. Martin seconded the motion.

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

After a short recess, the Board reconvened the meeting. Chairman Alberta announced that the application of 15 Prospect Terrace would be carried to the May 4<sup>th</sup> meeting with no further notice required.

**DOCKET #17-001**

**Application for Preliminary and Final Site Plan Approval with Use Variances and D-2 Variance  
Artmark Mold & Tool Co.  
742 Paterson Avenue  
Block 20, Lot 1**

Chairman Alberta recused himself from this application as he lives within 200 feet of the subject property. Vice-Chairman Polifronio presided over the application and Mr. Sands filled the vacancy.

Mr. David Crook, Attorney for the Applicant, introduced the application and submitted the following exhibits:

- A-1. Application
- A-2. Proof of Publication and Mailing
- A-3. Tax Collector Certification
- A-4. Site Plan of MCB Engineering
- A-5. Architectural Plans
- A-6. Project Impact Analysis
- A-7. Boundary and Topography Survey
- A-8. Drainage Calculations
- A-9. Review of the Borough's Special Monitor
- A-10. First Review of Remington, Vernick, and Arango
- A-11. Second Review of Remington, Vernick, and Arango

A-12. Final Review of Remington, Vernick, and Arango

Mr. Crook introduced the application of 742 Paterson Avenue, stating that the Applicant sought to add a second floor addition on an existing, non-conforming use.

Mr. Tomasz Adach, Architect for the Applicant, came forward to provide testimony related to the application. He testified that the building is an existing, one-story building constructed of steel and woodframe. He noted that the building, as it exists, sits below the grade of Paterson Avenue.

Mr. Adach explained that the Applicant was proposing to create a second floor addition to provide additional space for operations. Specifically, the second floor would be utilized for office space, conference area for client meetings, locker room space, and storage. He noted that manufacturing would continue on the first floor. He noted the addition is approximately 125 feet by 50 feet but did not increase the footprint of the building, only the height. He also explained the application would provide the addition of two doors, one for the office, and a second for handicap access.

Mr. Martin noted that the proposed height was 32 feet, and asked what the current height is. Mr. Adach responded that the current height is 14 feet.

Mr. Martin asked if there were windows on the existing building facing the residential homes. Mr. Adach responded that there were existing windows that would not be modified, and new windows on the second floor would be installed but be higher from the floor in height and smaller in size.

Mr. Mark Eura, representing the Applicant, came forward to testify regarding the operations of Artmark Mold & Tool Co.

Mr. Eura testified that the business currently manufactures tooling components for the manufacturing of plastic products, but does not actually create the plastic products. He explained that the facility does not generate any noxious fumes and shipments are sporadic dependent on business, and usually accomplished via UPS deliveries, with a preference for box trucks.

Mr. Eura further explained that the facility currently has seven employees and the expansion would likely require three to four more employees. Mr. Senor noted that he felt the spaces provided for office and locker room spaces appeared to exceed 11 employees. Mr. Eura explained that expanding technology in Artmark's industry, along with the need to provide more space to meet with clients, and to provide employee comfort and safety drove the design of the building.

Mr. Viccaro asked for hours of operation, to which Mr. Eura responded that typically the work shift was Monday through Friday from 7am to 5:30pm, with an occasional late night extending to 7pm. He noted that Saturdays were not typical work days, but in some instances they have operated from 7am-12pm.

Mr. Polifronio asked about the storage area on the second floor. Mr. Eura explained that storage on the first floor would be moved to the second to make room for additional manufacturing equipment.

Mr. Matthew Clark of MCB Engineering of Totowa came forward to present the site plan.

Mr. Clark testified that the application would be improving site conditions by reconfiguring the parking area and utilizing a one-way driveway, entering from Rose Street and exiting via an existing curb-cut on John Street. He noted that existing hedge and fence screening would remain in place and there would be no impact to drainage, and limited site engineering.

Mr. Clark explained that 12 parking spaces would be provided, with one space requiring setback relief as 3.2 feet was provided where 5 feet is required. He explained the condition is due to the site configuration and location of the proposed space. He also explained that relief would be required for the driveway grade as the application proposed 2-3% where 1.5% is required. He did not feel the relief would cause any issues on site.

Mr. Levy asked about truck movements on the site. Mr. Clark explained that trucks currently back in off of Rose Street and exit via Rose Street as well. He noted that under the proposed application, truck movements would remain the same, but cars would exit via John Street.

Mr. Polifronio asked about the traffic impacts to John Street under the proposed configuration. Mr. Clark explained that the impact would be low as it is anticipated a majority of those trips would be employees leaving for the day.

Mr. Everett asked if car stops would be provided, to which Mr. Clark responded they didn't appear necessary but could be added if necessary.

Mr. Everett asked if any additional landscaping was being provided. Mr. Clark responded that no additional landscaping was being proposed as the existing landscaping was adequate and provided a sufficient buffer.

Mr. Martin asked about the aisle width. Mr. Clark explained that the width varied from 20 to 25 feet, and tapered down to 18 feet.

Mr. Senor expressed concern over lighting spillover from the parking lot. Mr. Eura noted that there is an existing hedge that the company could allow to grow out further to create additional screening.

Mr. Senor asked for additional explanation regarding the drainage and stormwater contaminants. Mr. Clark responded that the design of the stormwater system on the site complies with the Borough ordinance due to the size of the development. He noted that an on-site well can accommodate suspended solids, and filtering could be provided if required.

Mr. Senor noted a low spot on the site, to which Mr. Clark responded that a pump is currently in place to address the low spot. He explained that the pump currently pumps water to the curb cut in the street. He further explained that the new design collects run off from the site and reduces the burden on the pump.

Mr. Senor made a number of suggestions regarding design as it relates to the grade and drainage system on the site, which could improve water quality run off. Mr. Clark responded that the application met the requirements of the Borough code and additional improvements would not be necessary or economical to implement.

Mr. Senor recommended that the electric utility be accomplished underground. The Applicant agreed.

Mr. William Stimmell came forward to provide testimony regarding the site. He explained that he had prepared a Project Impact Analysis for the application.

Mr. Stimmell summarized his analysis of the site by explaining that the site was located in an area that is a majority single and two-family residential to the south, multi-family residential to the east, retail and commercial to the west, and a park area to the north.

Mr. Stimmell further explained that there is no noise generation from the site and air quality is not impacted by the facility. He noted that the interior of the building's air quality is controlled by dust collector systems, which are cleaned on a regular basis and disposed of with all other waste. He noted that there are no significant hazardous materials and there is no knowledge of on-site contamination, verified by a search of the NJDEP database.

Mr. Stimmell explained that the Applicant was seeking two, D-variances for expansion of a legally existing, non-conforming use and height. He explained the D-2 Use Variance was appropriate to grant as the site is suitable to accommodate the use, provided for safe and efficient vehicle usage, and provides screening of Paterson Avenue. He noted that the application advances the Municipal Land Use Law and has no substantial detriment to the area.

Mr. Stimmell continued to explain that the D-6 Height Variance would be appropriate to grant as the roof of the existing building is in line with the neighboring houses second floor lines. He further noted that from Paterson Avenue, the building would appear one story in height because of its topography.

Mr. Stimmell explained the potential C variances, noting that coverage and setback were existing conditions, with no proposed changes. He noted that a variance was requested for canopy size, as one foot is required, where four feet is proposed to provide appropriate coverage for weather.

Mr. Stimmell noted that a C variance would also be needed for impervious coverage, but conditions were being improved based on the proposed drainage improvements.

Mr. Stimmell explained that while a variance was required for the number of parking spaces, 12 were being provided where 32 are required, however, the provided spaces meet the demand of the business.

Mr. Stimmell explained that a variance may be required for the business signs in a residential area, and design waivers would be necessary for parking dimensions and aisle width.

Mr. Stimmell concluded his summary of variances by stating he felt there would be no negative impacts by granting such variances and waivers.

Mr. Polifronio asked for further explanation into the proposed signage. Mr. Adach presented an updated sheet showing the signage proposed. The plan showed on-building signage and a free-standing sign with dimensions of four feet in height and three feet in width, located on the corner of Paterson Avenue and Rose Street. Mr. Adach responded to concerns over the signage by stating that the building is difficult to see due to its location and the signs on the building are smaller in size. He also explained the sign would be illuminated from dusk until dawn.

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

Mr. Larry Bongiovanni of 294 Rose Street came forward and testified that the Applicant is a good neighbor, but felt that the proposed addition would overshadow his property. He felt the property was small in size and the number of variances requested was too many for such a small site. He also expressed his opinion that the rezoning of the area to residential years ago was to limit and remove such uses.

Mr. Charles Flenner of 387 Paterson Avenue came forward representing the East Rutherford Fire Department. Mr. Flenner asked about the building classification, the type of materials being delivered and stored on site, and the size of the parapet walls on the proposed roof. Mr. Eura responded that only raw materials area stored, such as steel, aluminum, and plastics for use in manufacturing. Mr. Adach noted that the parapet wall would range from one foot to four feet.

Mrs. Helen Bongiovanni of 294 Rose Street came forward and asked questions of the Applicant's architect and engineer. She asked if the roof would be flat, to which Mr. Adach explained it would be a low pitch roof.

Mrs. Bongiovanni stated that the pump on-site does not always work properly and voiced her concern over drainage. Mr. Clark responded that the application would improve conditions through redesign of the site and the drainage system.

Mrs. Bongiovanni asked about the cars exiting via John Street and expressed concern over the site being used as a short-cut between the two streets. Mr. Crook stipulated that the owner would lock the gate on John Street at the conclusion of the workday.

Mrs. Bongiovanni asked about the number of deliveries with the expansion of the business. Mr. Crook noted that the application was more for a redesign of the business's operation rather than an expansion. Mrs. Bongiovanni concluded noting that the business has been a good neighbor.

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

Mr. Polifronio asked for additional details regarding the proposed canopies. Mr. Adach explained that the canopies were over the building entries at the entrance landings. He explained they protruded four feet and would be aluminum.

Mr. Krajunus restated his concern over placing a standalone sign at the corner of Paterson Avenue and Rose Street. Mr. Crook stated the Applicant would withdraw the sign from the application.

Mr. Krajunus moved to accept the submitted Project Impact Analysis. Mr. Viccaro seconded the motion, and all were in favor.

Mr. Krajunus moved to approve the application with the discussed stipulations, including (1) the hedge row be grown and maintained for screening, (2) the electric utility be made underground, (3) filtering be installed in the stormwater system, (4) trucks be restricted from exiting via the John Street gate, and the gate be locked at the conclusion of the workday, and (5) no sign be permitted on the corner of Paterson Avenue and Rose Street. Mr. Sands seconded the motion.

<b>ROLL CALL</b>						
<b>MEMBER</b>	<b>MOVED BY</b>	<b>SECOND</b>	<b>AYE</b>	<b>NO</b>	<b>ABSTAIN</b>	<b>NOT PRESENT</b>
Polifronio			<b>X</b>			
Levy				<b>X</b>		
Martin				<b>X</b>		
Krajunus	<b>X</b>		<b>X</b>			
Viccaro			<b>X</b>			
Banca				<b>X</b>		
Sands		<b>X</b>	<b>X</b>			

Approval required five affirmative votes, therefore the motion failed to carry.

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

Minutes By:  
John Giancaspro  
Secretary