



BOROUGH OF EAST RUTHERFORD ZONING BOARD OF ADJUSTMENT MEETING MINUTES SEPTEMBER 7, 2017

A meeting of the East Rutherford Zoning Board of Adjustment was held on **September 7, 2017** at 7:00pm at the Borough Hall, located at 1 Everett Place, East Rutherford. This meeting was held in compliance with the Open Public Meeting Act, N.J.S.A. 10:4-6.

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 type="checkbox"/> John Martin | <input checked="" type="checkbox"/> Robert Nash, Engineer |
| <input checked="" type="checkbox"/> Richard Krajunus | |
| <input checked="" type="checkbox"/> Gary Viccaro | |
| <input 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

The minutes of the meeting were approved with one correction, that Vice-Chairman Polifronio called the meeting to order.

APPROVAL OF MINUTES OF AUGUST 3, 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
Sands		X	X			

RESOLUTIONS

RESOLUTION #17-006(R)

Application for Variances

Ehab Fakhoury

84 Carlton Avenue

Block 18, Lot 8

A motion was made by Mr. Krajunus and second by Mr. Sands to approve the resolution for the variances requested for the proposed construction of a single family home on an undersized lot.

APPROVAL OF RESOLUTION 17-06(R)						
MEMBER	MOVED BY	SECOND	AYE	NO	ABSTAIN	NOT PRESENT
Alberta					X	
Polifronio			X			
Levy					X	
Martin						X
Krajunus	X		X			
Viccaro			X			
Banca						X
Sands		X	X			

APPLICATIONS

“WHISPERING WOODS HEARING”

HPVIII 33 Route 17, LLC v. East Rutherford Zoning Board of Adjustment

33 Route 17 South

Block 88, Lot 1 and 1.01

At the request of the applicant, the Board’s Attorney Richard Cedzidlo, informed the public that the HPVIII 33 Rout 17, LLC hearing would be carried to the October meeting, to allow for a full Board to be present.

Mr. Thomas Bruinooge submitted the Affidavit of Service and requested the hearing be rescheduled as soon as possible. The Board was in favor of hearing the application at its next regular meeting scheduled for October 5, 2017 at 7:30pm.

A motion was made by Mr. Krajunus and seconded by Mr. Levy to relieve the application from further public notice for its next hearing date scheduled for October 5, 2017 at 7:30pm. All were in favor.

DOCKET #17-004
Application for Use and Bulk Variances
405 Railroad LLC
405 Railroad Avenue
Block 47, Lot 6.01

Mr. David Crook, Attorney for the Applicant, came forward and introduced the application. Mr. Crook provided an affidavit and proof of publication, which Mr. Cedzidlo confirmed was sufficient

Mr. Crook introduced the following exhibits in connection with the application:

- A-1. Application
- A-2. Proof of Publication and Certified Mail Receipts
- A-3. Tax Collector Certification
- A-4. Topographic Survey, dated August 5, 2016
- A-5. Architectural Drawings, dated March 2, 2017
- A-6. Site Plan dated, dated April 10, 2017
- A-7. Project Impact Assessment
- A-8. Special Monitor Review Letter, dated May 20, 2017
- A-9. Response Action Outcome Letter, dated July 29, 2017
- A-10. Review Letter of the Board's Planner Mark Everett, dated May 15, 2017
- A-11. Sanitary System Review Letter of Neglia & Associates, dated May 22, 2017
- A-12. Review Letter of the Board's Engineer Arthur Senior, dated May 26, 2017
- A-13. Final Review Letter of Board Planner Mark Everett, dated May 31, 2017
- A-14. Applicant's Planner Notes authored by William Stimmel

Mr. Matthew Clark of MCB Engineering of Totowa, New Jersey came forward to testify regarding the Site Plan for the application. Mr. Clark was accepted by the Board to provide testimony.

Mr. Clark reviewed the drawings prepared by his firm and noted that the site is located in the light industrial district, located at 405 Railroad Avenue. He noted that the current use of the property is an existing, vacant commercial use and the Applicant seeks to remove the current structure and build a multi-family residential development, consisting of two (2) one-bedroom housing units, and eight (8) two-bedroom units. At grade parking would be provided, with two living floors above. He explained that access to the site would be from Railroad Avenue only and parking stalls were provided at the design of the RSIS standard. He noted that 20 parking spaces are provided, however, the Applicant was seeking a variance to provide 13 spaces.

Mr. Clark introduced the grading and drainage plan, noting that disturbance would be minimized and the drainage pattern would be maintained. He explained that all utilities would be brought from existing utilities on Mozart Street.

Mr. Clark addressed the review of Neglia Engineering related to the sanitary sewer system. He explained that the development would connect into an existing 12-inch line, with a new lateral connecting to it, the

size of which would need to be determined, but estimated to be 6 to 8 inches in size. He further responded that the Applicant would meet the requirements of additional notes on plans, and televise the existing line, as requested.

Mr. Clark continued by addressing the review letter of Remington & Vernick regarding engineering. He first addressed a concern over an existing easement and explained he was not familiar with what the easement was put in place for, but assumed it related to the existing loading dock. He further noted that the easement would be vacated as there would be no need for it under this application.

Mr. Clark addressed the need to provide a Lighting Plan, to which he noted that the plan would be done at the time of construction and subject to the Board's Engineer approval.

Mr. Robert Nash, Engineer for the Board, asked Mr. Clark about the capacity of the sewer line and supporting documentation to substantiate his position that it was adequate. Mr. Clark responded he felt a 12-inch line was appropriate, but would conduct further investigation and communicate with the Borough's sewer authority.

Mr. Nash expressed concerns with truck movements in and out of the site, creating a traffic concern. Mr. Clark explained that the collection of trash would be from the street, with the refuse being brought curbside, rather than requiring any collection vehicle to come on to the site.

Mr. Nash expressed concern over parking space number 13. He explained that it did not seem realistic for vehicles to maneuver in and out of that parking space based on its placement. Mr. Clark agreed that he did not feel the space is not ideal, however, it was put on the plans to maximize the amount of parking due to the requested variance. Mr. Nash explained that he did not feel the space was usable.

Mr. Nash asked about the sight distance of vehicles exiting the site. Mr. Clark explained that there is 100 feet of sight distance for vehicle traffic, and 50 feet for pedestrians. He noted that the building core is cut back, providing for adequate sight.

Mr. Alberta asked for further explanation regarding the spacing of parking stalls, related to spaces 7 and 13. Mr. Clark explained the spacing around spot number 7 and again noted that 13 did not present the most desirable conditions but was included to achieve maximum parking.

The Board discussed the parking requirements of the ordinance and RSIS standard with Mr. Clark. Mr. Clark explained there are 10 apartment units being proposed with 13 parking spaces available. He further explained that each unit would have a parking space assigned to it, and the remaining spaces would be for guest parking. Mr. Crook noted that additional testimony regarding parking availability on Railroad Avenue and the close proximity to transit would be addressed through the Applicant's Planner's testimony.

Chairman Alberta asked about the increase in impervious surface. Mr. Clark stated that there would be less green area based on the size of the proposed building, in comparison to the site as it currently exists. Mr. Clark stated that even though the impervious surface was being increased, the development would pose no detriment in terms of drainage. He explained that drainage would go into an existing system, and would be maintained based on how drainage currently flows.

Mr. Anthony Guzzo of Guzzo and Guzzo Architects in Lyndhurst, New Jersey came forward to provide testimony related to the building's design. Mr. Guzzo was sworn in and accepted by the Board as an expert witness.

Mr. Guzzo described the layout of the property, and noted the angle towards the Railroad Avenue side of the property. He stated that the building would consist of three stories, with the ground floor consisting of a lobby with access to the main stairwell and elevator. He added that a secondary egress stairwell was provided, and the first floor also had a utility room and trash and recycling room. He explained that the Applicant intended to have a building manager on site to handle movement of smaller collection receptacles placed curbside, rather than having larger containers.

Mr. Guzzo continued by explaining there are five residential units per floor on the second and third floor. He explained there would be four (4) two-bedroom units and one (1) one-bedroom unit per floor. Mr. Guzzo referred to Sheet P-1 and provided the Board with an overview of the layout of the units on each floor.

Mr. Guzzo stated that the Applicant is interested in providing a modern design for the exterior, with traditional brick elements. He noted the remaining exterior would have wood siding and gray panels for infill. The color scheme will be brown and gray. The wood panel will wrap around most of the building. The panel is a heavy material durable for harsh weather. Mr. Guzzo provided visual elevation renderings and agreed to provide samples or specifications to the Board.

Mr. Nash asked Mr. Guzzo to explain the building's mass in comparison to the surrounding structures. Mr. Guzzo explained that in comparison to the neighborhood the architecture varied in terms of the building's position, however, the height was like those structures in the area. He noted the height would be approximately 35 feet.

Mr. Nash asked about the setbacks for the property. Mr. Guzzo explained that the setbacks were minimal at 3-feet in the rear and 5-feet from the adjacent property. Mr. Nash asked for clarification regarding the building's setback from the Right-of-Way line. Mr. Alberta asked how close the building was to the nearest property on Mozart Street. Mr. Guzzo explained that he would have to review the survey and determine the setback. Mr. Crook clarified stating that on the left side of the building, the setback was 5 feet, as well as on the right side and 3 feet on the Mozart Street directly behind the building. Mr. Crook noted that the size and dimensions of the property were unique and one of the hardships the Applicant was facing.

Mr. Alberta voiced his concern that there was no green element to the project and felt the building could have been designed at a reduced size to allow for some landscaping to be provided.

Mr. Viccaro asked if the units would be rentals or condominiums. Mr. Crook stated that it had not been decided but could be rentals to start and then converted. Mr. Viccaro also asked if there would be affordable housing, and Mr. Crook stated that the Applicant would comply with the Special Monitor's determination of two units.

Mr. Viccaro asked about the square footage of each unit. Mr. Guzzo explained the two-bedroom units would be between 1,200 and 1,500 square feet, and the one-bedroom unit would be 1,055 square feet.

Mr. Everett asked about the architectural style. Mr. Guzzo stated it was a modern design with a flat roof, to ensure that the building was not oversized. Mr. Alberta asked if there would be utilities on the roof. Mr. Guzzo explained that each unit would have individual units and would be incorporated into the wall structure or built into the interior closets.

Mr. Krajunas voiced his concern over the number of variances and waivers, and the magnitude of the deviations and noted that he was unsure if the benefit to be provided was appropriate to the amount of relief sought.

Mr. William Stimmel of Rutherford, New Jersey came forward to provide testimony regarding planning and traffic engineering. Mr. Stimmel reviewed the Project Impact Assessment and provided information regarding the allowable uses and conditions, and how that correlated with the application. He also described the surrounding neighborhood, noting that while it is located in a Light Industrial Zone, it is surrounded by residential uses.

Mr. Stimmel stated that the Applicant will provide two affordable housing units, which was accepted by the Special Monitor.

Mr. Stimmel explained that based on research and data provided by the Bloustein School at Rutgers University, it is estimated that there would be 1.39 school age students living at the proposed project. He stated that based on a projected cost of \$19,000, the fiscal impact would be approximately \$26,000.

Mr. Stimmel testified that remediation has been completed on the site and approval requests have been sent to the NJDEP, but response has not yet been received. Mr. Crook stated that confirmation has been received, but a No Further Action letter is still pending.

After a short recess, Mr. Crook stated that based on the comments and concerns of the Board, the Applicant wished to carry the application until next month, at which time revisions would be presented with eight units and resolve some of the variance relief sought. Mr. Polifronio moved to carry the application with no further notice requirement. Mr. Krajunas seconded the motion. All were in favor.

DOCKET #17-005
Application for Height Variance
Garfield Iron & Metal Co.
770-772 Paterson Avenue
Block 17, Lot 2

Mr. Jameson Van Eck of _____ came forward and introduced the application for 770-772 Paterson Avenue, seeking permission to construct a wall and perimeter fence at the site. Mr. Van Eck stated the following exhibits would be introduced to support the application:

A-1. Application

- A-2. Affidavit of Service and Publication / Certified Mailings
- A-3. Fence Plan, dated January 10, 2017 with a revision dated June 21, 2017
- A-4. Survey
- A-5. Aerial Photograph of the Pre-Existing/Non-Conforming Conditions

Mr. Van Eck explained to the Board that the site had previously had a cinder block wall, approximately 10-12 feet in along. He further explained that the condition of the wall was deteriorating and the Applicant had to demolish the wall, which was a pre-existing, non-conforming structure. He explained that the Applicant was before the Board to build a new wall and fence, which would have a wall base varying from 2 to 6 feet in height and also serve as a retaining wall on the property. Mr. Van Eck explained an 8-foot chain-link fence with vinyl slats would be installed on top of the wall. He noted that the purpose of the wall and fence was to provide security to prevent children from entering the somewhat dangerous site, as well as provide security from theft, and to provide general visual screening.

Mr. Van Eck continued that building the proposed wall/fence has been an on-going process with the Borough and multiple concerns were addressed in terms of design. He explained that when final plans were submitted, it was determined a variance was required due to the height and the reason the Applicant was before the Board.

Mr. Van Eck explained that the Applicant wished to work with the Board to find an acceptable height, and in the process of creating the new wall/fence, update the front gate and provide additional screening of the site.

Mr. Richard Galli and Mr. William Towers of Melville, New York were sworn in to provide engineering testimony in connection with the application. The engineers provided information related to Exhibit A-5 which depicted the site and a pre-existing wall around the perimeter, approximately 12 feet in height. It was noted that the wall no longer exists at the rear of the property and along the longest side of the property.

The engineers explained the Applicant sought to install an 8-foot chain-link fenced, embedded into a base of concrete block. Overall the height would be 10 feet at the Paterson Avenue side of the property and 14 from the exterior of the site at the rear. The varying heights are based on the change in elevation on the site, and the adjoining sites.

Testimony was given that screening would be provided in terms of landscaping from the McKenzie Field side of the property.

Mr. Nash asked about how the fence would be designed to ensure its integrity during wind events. The engineers responded that two courses of blocks would be used to secure the fence and the blocks would be mechanically attached. Mr. Van Eck noted that the Borough Engineer had been involved in the design process, prior to the application being required.

Chairman Alberta asked if there was a wall on the Paterson Avenue frontage. The Applicant's engineer provided testimony that there would be a 16-foot gate, made up of two eight-foot gates and the posts would be set on the two-foot block.

Mr. Everett asked if the gate would also have vinyl slats. The Applicant's engineer stated that the Borough requirement establishes that one be able to look through the gate, and the Applicant would seek the Board's guidance and direction on whether or not vinyl slats be installed.

Mr. Nash asked for the justification for the height. The Applicant's Engineer explained that the height was to meet operational concerns of the business, as moving metals can be hazardous and should a piece moved incorrectly, the fence/wall would provide added protection. The Applicant's Engineer explained stated that 10 feet is typical for this type of business. He further noted that the car's parked in the adjacent lot will provide screening of the block, and estimated on the top 16-20 inches of the wall would be visible.

Mr. Van Eck reviewed the C1 and C2 variances with the Applicant's Engineers, who provided his opinion that there were unique conditions that created a hardship to the Applicant. He noted the grade of the lot and the differences between the elevation with adjacent property, as well as trying to main a flat surface on the Applicant's site. He also stated that there is a need to provide security and safety to the site and the surrounding properties. He further identified that aesthetics of the site and wall were important to enhance the surrounding area. He felt there would no detriment to the public, and removing and avoiding barbwire further enhance the appeal.

Mr. Levy asked whether the Applicant had contacted the DEP to ensure compliance with regulations regarding the removal or movement of soil. Mr. Van Eck had stated they had not contacted the DEP, but would do so if required. Mr. Nash noted that a soil exemption should be filed with the County.

Mr. Viccaro moved to open the hearing to the public. Mr. Krajunus seconded the motion and all were in favor.

With no member of the public wishing to be heard, Mr. Viccaro moved to close the meeting to the public. Mr. Polifronio seconded the motion and all were in favor.

Mr. Krajunus moved to approve the application with the following stipulations:

1. The applicant provide a citation of a government standard that established a 10-foot wall is a standard for this type of facility
2. If any soil has to be approved, it be tested and disposed of appropriately, according to DEP regulations
3. The swing gates will not be opaque, and will be transparent with no slats.

Mr. Levy seconded the motion.

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

With no further business to conduct before the Board, a motion was made by Mr. Krajunus, seconded by Mr. Viccaro, to adjourn this regular meeting at 9:59pm. All were in favor.

Minutes prepared by:

Tamar Lawful,
Acting Secretary

John Giancaspro,
Secretary

Minutes By:

Tamar Lawful
Acting Secretary

John Giancaspro
Secretary