



# BOROUGH OF EAST RUTHERFORD ZONING BOARD OF ADJUSTMENT MEETING MINUTES NOVEMBER 2, 2017

A meeting of the East Rutherford Zoning Board of Adjustment was held on **November 2, 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 checked="" 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 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

<b>APPROVAL OF MINUTES OF OCTOBER 5, 2017</b>						
MEMBER	MOVED BY	SECOND	AYE	NO	ABSTAIN	NOT PRESENT
Alberta			X			
Polifronio	X		X			
Levy		X	X			
Martin			X			
Krajunus			X			
Viccaro			X			
Banca						X
Sands						X

## RESOLUTIONS

### RESOLUTION #17-008(R)

#### Application for Use and Bulk Variances

#### 405 Railroad LLC

405 Railroad Avenue

Block 47, Lot 6.01

The Board considered Resolution 17-008(R) memorializing the Board's denial of the Applicant seeking approval of use and bulk variances to construct a multi-family building with ten apartment units, of which eight are two-bedrooms, and two are one-bedrooms, as well as provide parking for 13 vehicles.

The Board Secretary informed the Board that Mr. Viccaro's name needed to be added to the Roll Call.

Mr. Polifronio asked if the word "not" should appear in "...also would not substantially" in the fourth line of Section 6.1 under Negative Criteria of the draft resolution. Mr. Cedzidlo agreed the word not should be removed from the resolution.

Mr. Krajunus moved to adopt the resolution with the two discussed changes. Mr. Polifronio seconded the motion.

APPROVAL OF RESOLUTION #17-008(R)						
MEMBER	MOVED BY	SECOND	AYE	NO	ABSTAIN	NOT PRESENT
Alberta						
Polifronio		X	X			
Levy			X			
Martin			X			
Krajunus	X		X			
Viccaro			X			
Banca						X
Sands						X

## APPLICATIONS

### DOCKET #16-009

#### "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

Mr. Thomas Bruinooge, Attorney for the Applicant, reintroduced the application to the Board. Mr. Bruinooge noted that following the previous meeting, the Applicant had revised Exhibit RA-2, which he entered as RA-14 (Sheet 5 of the Site Plan).

Before proceeding any further, Mr. Cedzidlo informed Mr. Bruinooge that the Board did not have its full membership and if the application concluded during this hearing, the Board would ask the Applicant to allow the vote to carry. Mr. Bruinooge agreed.

Mr. Brett Skapinetz, Engineer for the Applicant, came forward and explained the revisions made to the Site Plan following the last meeting. Mr. Skapinetz explained that additional dimensions were added for the Right of Way submittal to the County, but the plan had not yet been sent for County approval. He also noted that additional adjustments were made for landscaping around the trash enclosure.

Mr. Skapinetz introduced Exhibit RA-15, NJDOT Permit for Drainage Facilities dated October 17, 2017 (Permit No. D-17-N-9484-2016).

Mr. Mark Everett, Planner for the Board, asked if the current trees on site would be removed, to which Mr. Skapinetz explained that they would be removed when final grading is performed. Mr. Everett asked about trees to the west, to which Mr. Skapinetz explained that they would remain as they were on NJDOT property.

Mr. Skapinetz submitted Exhibit RA-16 which was the NJDEP Flood Hazard Area Verification and Permit. He explained that the document verified the flood hazard and authorized demolition. Mr. Krajunus asked about the time permitted under the permit. Mr. Skapinetz explained that it was a five year permit which could be extended by application to the DEP.

Mr. John Lignos, Architect for the Applicant, came forward to provide additional testimony regarding the architecture of the application. Mr. Lignos introduced two exhibits depicting the proposed elevations for the application. He noted that one was colored in black and white (Exhibit RA-17) and one colorized (Exhibit RA-18). He noted that the changes included the change of the oval sign to a simpler horizontal size on the east and west sides of the building. He also noted that the wasabi green color was changed to a gray.

Mr. John P. Szabo, Jr. of Burgis Associates of Westwood came forward to provide planning testimony on behalf of the Applicant. Mr. Szabo reviewed the requirements of a storage facility as a conditional use in the Regional Commercial Zone and explained that the Applicant met 9 ½ of the 10 requirements. He explained that the 9 ½ was because the Applicant was able to provide ingress to the site via Route 17, but not egress, as required by the conditional use requirements. He noted that the condition was outside the Applicant's control as the NJDOT would not permit egress.

Mr. Szabo reviewed the Borough's Master Plan dated 1989 and explained that the application supported the plan as it created a new opportunity for economic development, reduced traffic volumes, and promoted development along Route 17.

Mr. Szabo further explained details related to the egress issue and noted that failing to meet the egress requirement of the conditional use triggered a D3 variance. He testified that the development of the site was in compliance with the Regional Commercial zone and the egress condition was created by the NJDOT not permitting egress. He further explained that egress from the site on to Paterson Avenue would not be detrimental as it has no effect on the site, and the site itself would generate lower volumes of traffic and the surrounding road network has the capacity to handle volume.

Mr. Szabo testified that the site was appropriately designed and has evolved in design since first submittal through conversation between the Applicant, the Board and its professionals. He noted that the site has been designed to improve drainage, the architecture of the building is attractive, and the intensity of the use is lower than permitted uses. He explained that the Applicant lowered the site to four stories and its character blends with the surrounding community.

Mr. Szabo explained that the application required minor relief from bulk requirements. He detailed that the proposed fence and wall exceed the four foot requirement, as the Applicant sought six feet to ensure security of the site, and was in alignment with other self-storage facilities.

Mr. Szabo testified that a variance was requested for façade signs, where four were requested and three were required. He explained that the variance was triggered by the addition of an office sign that promotes functionality on the site and provides direction to visitors.

Mr. Szabo continued by detailing site design exceptions, including loading spaces and areas, which he explained were not necessary for the site as it was not receiving goods as a commercial, retail, or industrial site would. Other exceptions included the encroachment of the dumpster into the setback by approximately six feet. Mr. Szabo felt this had no detrimental impact as it was below the grade of Paterson Avenue and would not be visible. He also noted that a landscaping buffer has been provided around the site.

Mr. Krajunus asked for additional explanation related to the hardship related to the requested variance for the proposed fence. Mr. Szabo explained that a fence, four feet in height, was not appropriate for security and the slope of the property would minimize the impact, which he believed was negligible.

Chairman Alberta asked how Mr. Szabo had compared the building to the area's building. Mr. Szabo responded the Applicant had superimposed the building along with the building height elevations.

Chairman Alberta expressed concern over the traffic impact created by egress of the site to Paterson Avenue. Mr. Szabo explained that any use of the property would generate an impact and the proposed self-storage use would be less substantial than other uses that would be permitted.

He noted that the traffic study prepared by the Applicant demonstrated the use would not have a substantial impact and the area roadways could handle the traffic impact.

Mr. Everett noted that the Right Only exit would require visitors to travel a longer distance to turn around. Mr. Robert Nash, Engineer for the Board, explained that the Applicant had made the best of a difficult situation created by the NJDOT. Mr. Bruinooge also noted that the Applicant chose to accept a Right In / Right Out ingress/egress as to not have an impact to the surrounding Borough streets. He noted the Applicant had made a business decision that would require its visitors to travel to Murray Hill Parkway to turn around.

Mr. Levy asked if a Left-In turn was permitted, if it would require a traffic signal. Mr. Nash responded that he did not feel the traffic volume into the site would permit the installation of a traffic signal.

Mr. Rob Simon, Attorney for Ada and Sergio Segalini of 39 Jane Street came forward to cross examine the Applicant's professionals. Mr. Simon asked Mr. Skapinetz a series of questions related to site dimensions and wall size. Mr. Skapinetz used Exhibit RA-4 to respond to Mr. Simon's questions and explained that the site was approximately 275 feet from the start of Ramp G, and 22 feet in setback from Route 17, which was less than the original submission of the application. Mr. Skapinetz continued by explaining that the height of the retaining wall varied from 0.6 to 10 feet based on the varying grades of the site and was approximately 200 feet in length.

Mr. Simon continued by asking Mr. Skapinetz about the visual screening of the site and the view of the site from the surrounding residential areas. Mr. Skapinetz explained that the surrounding areas were of a higher elevation and had a downward view of the site. He explained that the site would be screen with landscaping and Mr. Simon asked for additional details of the type, number, and size of the landscaping that currently existed and would be provided. Mr. Skapinetz explained that an inventory had not been performed and new trees would be planted at approximately six to seven 6-7 feet in height, growing approximately ½ to 1 foot each year. Mr. Simon asked about the maintenance and irrigation of new plantings, to which Mr. Skapinetz explained the plantings would likely be guaranteed, by Borough requirement, for 2 years, but no irrigation would be provided. Mr. Simon asked if landscaping was provided to buffer the site, should the NJDOT choose to remove trees from its property. Mr. Skapinetz noted that the Applicant's plan took removal of DOT trees into account.

Mr. Simon asked Mr. Skapinetz to explain why the current version of the Site Plan depicted the proposed self-storage facility closer to Route 17, with reduced drive aisles. He also asked for additional information related to the future development portion of the site. Mr. Skapinetz explained that the Applicant had revised the plans, including the size, height, and position of the building, as well as reducing drive aisles to 28 feet in width. He further explained that a 13,000 square foot retail building footprint is shown on the site to assist in showing potential future development. He noted that while the future development has not been decided it was used on the application to ensure appropriate stormwater calculations.

Mr. Simon asked for an explanation of the height of the proposed self-storage building. Mr. Skapinetz explained that the building was redesigned to be 4 stories and the height was 45.5 feet, based on the average elevation of Route 17. He also explained that the building size was revised from 5 stories at 19,000 square feet per story, to 4 stories at 25,600 square feet.

Mr. Simon asked Mr. Skapinetz a series of questions related to the preparation of Exhibit RA-3. Mr. Skapinetz explained that a surveyor had prepared the exhibit through typical survey methods from the Applicant's site. He explained that no square footages of the buildings were taken but he acknowledged they were likely less than 4,000 square feet. Mr. Skapinetz explained he could not provide any information related to Mr. Simon's question of how much building mass was above the 35 to 50 foot elevation, but noted that the buildings did not likely exceed 35 feet. Mr. Skapinetz did not have any further information related to the buildings, in terms of square footage, year built, or variances needed at the time of construction.

Mr. Robert Inglima, Attorney for Ksertbas, Inc. came forward to cross examine Mr. Skapinetz. Mr. Inglima asked a series of questions related to Exhibits RA-7, RA-8, and RA-9. Mr. Inglima asked if Mr. Skapinetz had prepared the site plan and if it was correct that Sheets 2 and 4 of RA-9 are not representative of current conditions. Mr. Skapinetz responded that his office was responsible for the site plan that was used to create RA-7 and RA-8, and RA-9 was not representative of current conditions.

Mr. Inglima asked Mr. Skapinetz to identify the plan that was used to apply for permits to the NJDOT and NJDEP. Mr. Skapinetz explained that his office prepared the plans for permits but did not have them with him. Mr. Inglima requested that the plans be submitted to the Board for consideration. Mr. Bruinooge objected that they were not necessary. Mr. Inglima objected to the Board considering the permits without the plans present, to identify difference in the permit submission and plans being considered by the Board. Chairman Alberta acknowledged Mr. Inglima's objection and noted that the Board does not typically get the back up plans for permit submission.

Mr. Inglima continued by asking Mr. Skapinetz about the status of County approvals and correspondence between his office and the County. Mr. Skapinetz stated that his employees had worked on submissions to the County and correspondence was received requesting revisions which his office addressed. Mr. Inglima asked about the status of turning issues and Mr. Skapinetz explained that the conversation was continuing with the County.

Mr. Inglima asked Mr. Skapinetz if any additional vehicle movements were considered, beyond the one shown on Sheet 16. Mr. Skapinetz responded that there were no other movements.

Chairman Alberta opened the cross examination to the Public.

Mr. Charles Flenner, representing the East Rutherford Fire Department, came forward and asked that the plans be updated to identify painted fire lanes, as well as the locations of fire hydrants and the Fire Department Connection (FDC). He requested this be done prior to any decision, and with

the understanding that the water utility may require changes during construction. Mr. Skapinetz agreed to both requests.

Mr. Simons began cross examination of the Applicant's Architect, John Lignos. Mr. Simon asked Mr. Lignos questions related to his preparation for testimony, including whether Mr. Lignos had reviewed previous meeting transcripts, evidence, or the resolution of denial. Mr. Lignos responded he had not, and stated that he had met with the Applicant's project team and addressed the concerns of the Board members.

Mr. Simon asked Mr. Lignos questions about the design of the building, specifically related to size, footprint, explanation of gross and net square footage, instructions provided to Mr. Lignos by the Applicant related to size, and the research he had conducted related to self-storage facilities. Mr. Lignos responded to the questions that he was asked to provide an operationally function square footage of 102,600 square feet. He explained that gross square footage was the entire square footage, and net square footage was based on the exterior footprint minus stairs and utilities. He noted that he had done no independent research related to self-storage facilities but was aware of the standards of self-storage owners and operators.

Mr. Simon asked how many self-storage units would be provided in the building. Mr. Lignos explained that he had not created an interior unit plan as it is dictated based on market demographics and would be determined by the operator. Mr. Simon requested an estimated range of units, to which Mr. Bruinooge objected to the question stating that it was not regulated by the Borough's ordinance.

Mr. Simon asked Mr. Lignos about other self-storage facilities he had designed in the past and whether they were 100,000 square feet, how many stories, and how many units were present. Mr. Lignos explained that he had designed facilities in Westwood, Hillsborough, and Carteret. He explained they were 100,000 square feet, 4 to 5 stories in height, and included approximately 400 to 500 units.

Mr. Simon continued by asking a series of question related to design and the view from the surrounding area. Mr. Lignos explained that he could not provide the detail requested regarding how much width would be visible, because it would vary based on point of view. He explained that the proposed building was designed to look like a commercial structure, and a residential look was not considered. He continues that there would be 14 loading areas visible from the west elevation and the top of some doors may be visible from Paterson Avenue. He also responded that he did not know if there were buildings with the same square footage in the area.

Mr. Simon asked if Mr. Lignos had conducted any evaluation of the impact the building would have on the New York City skyline. Mr. Lignos responded he had not.

Mr. Simon asked questions related to the pictures shown on RA-5, RA-6, RA-7, and RA-8. Mr. Lignos identified the location of each building and which he had visited.

Mr. Simon asked why the proposed signage was changed and whether research was conducted related to the sign and traffic. Mr. Lignos explained that the prior proposed sign was 14 feet 10 inches by 6 feet 8 inches, and the updated sign was 15 feet 11 inches by 6 feet ½ inch. He explained that the sign was designed based on the Applicant's standards and sized to be appropriate on the wall.

Due to the lateness of the hour, Chairman Alberta concluded the hearing and announced that the application would be carried until December 7<sup>th</sup> at 7:30PM.

With no further business before the Board, Mr. Polifronio moved to adjourn the meeting. Mr. Martin seconded the motion. All were in favor.

Minutes prepared by:

John Giancaspro  
Secretary