



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

A meeting of the East Rutherford Zoning Board of Adjustment was held on **December 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"/> Tamar Lawful, Acting Secretary |
| <input checked="" type="checkbox"/> Carmen Polifronio, Vice-Chairman | <input checked="" type="checkbox"/> Richard Cedzidlo, Attorney |
| <input checked="" type="checkbox"/> Al Levy | <input 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 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

Upon a motion made by Mr. Polifronio, seconded by Mr. Martin, the minutes of the November 2, 2017 meeting were approved.

APPROVAL OF MINUTES OF NOVEMBER 2, 2017						
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			
Sands			X			

RESOLUTIONS

RESOLUTION #17-009(R)

Before the Board was Resolution #17-009 authorizing the Board Secretary to issue Requests for Qualifications (“RFQs”) for Zoning Board of Adjustment Attorney, Zoning Board of Adjustment Engineer, and Zoning Board of Adjustment Planner for the Year 2018. A motion was made by Mr. Polifronio, seconded by Mr. Krajunus to approve the resolution with one change; that page 1, section 3 be updated from “Chairman of the Planning Board” to “Chairman of the Zoning Board.”

APPROVAL OF RESOLUTION #17-009						
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			
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. Cedzidlo stated that Mr. Banca and Mr. Sands had listened to all recordings of previous meetings that they were not in attendance and could continue with the application. Mr. Cedzidlo drafted a written for certification for both members to sign.

Professional Planner, John P. Szabo Jr. of Burgis & Associates of Westwood was sworn in before the Board and was questioned by Attorney Robert Simon, the attorney representing Sergio Segalini of 39 Jane Street. A series of questions were directed to Mr. Szabo to which he responded that he had not reviewed the previous resolution regarding the applications nor other documents such as engineering, architectural plans, traffic circulation impact report, environmental

statement/assessment as it pertained to the application. Mr. Szabo stated that he only reviewed the exhibits, but made no comparisons to the prior submittal.

During the questioning, Mr. Szabo confirmed that he reviewed the zoning ordinance, site plan ordinance, and the reliefs required for the application. Mr. Simon questioned Mr. Szabo on whether any effort was made on his behalf to locate the dumpster. Mr. Szabo stated that from a planning prospective he doesn't know why the location was selected for the dumpsters; however, the engineer would be the best person to answer such question. Mr. Szabo further stated his opinion that the dumpster is a non-impact factor because it is below grade and not visible to the neighborhood from Paterson Avenue. In response to the removal of trees on Paterson Avenue where proposed property to be built, Mr. Szabo stated that there will be new landscaping; however, the trees removed will be replaced with standard 6ft trees.

Exhibit RS-1 was submitted by Mr. Simon, a compilation of the East Rutherford zoning/site plan ordinance obtained from Ecode360.com which specifically cites the East Rutherford code §389-21 Standards for Conditional Uses and §389-25 Conditional Uses Permitted in Regional Commercial District.

Mr. Simon cited code §389-25 Conditional Use Permitted in Regional Commercial District which referenced the hours in which a business shall not operate (from 12am-6am). In response to Mr. Simon, Mr. Szabo stated that to his understanding the business will be in compliance to the Borough's code and operate its business during acceptable hours.

Mr. Simon referenced code §389-25F, section F9, which states the self-service storage facility shall have ingress and egress from a state highway, and asked if this requirement will be met or if a D variance will be required. Mr. Szabo acknowledged that it would required a variance.

Mr. Simon referenced section F10, of code §389-25F, which states Notwithstanding anything to the contrary in the Limiting Schedule of §389-27, self-service storage facilities otherwise satisfying the requirements of this §389-25F may have a height not to exceed 60 feet from the elevation of Route 17 and no more than five stories. Mr. Simon questioned whether code §389-25F can be satisfied if half of the compliance standards are not met. Mr. Szabo responded that the application seems to satisfy all the requirement except for section F9.

Mr. Joseph Mecca, appearing in place of Mr. Inglima on behalf of Ksertbas, Inc, did not seek to question Mr. Szabo.

Chairman Alberta opened the cross examination of Mr. Szabo to the public. No member of the public wished to cross examine.

Mr. Simon called his second witness, Sergio Segalini, of 39 Jane Street. Mr. Simon stated that his law firm was retained by Mr. Segalini in connection with this application. As requested by Mr. Simon, Mr. Segalini stated his opinion of the proposed property as follow:

1. The property is too big for the neighborhood;

2. The property is obtrusive;
3. There is too much building coverage;
4. The property doesn't fit in with the surrounding nor the high school nearby; and
5. The property will be a disservice to the residents, if built.

Exhibit RS-2 was submitted by Mr. Simon, a photograph taken on February 28, 2017 at 4:41p.m in front of 39 Jane Street by Mr. Segalini, which depicts the New York skyline. Mr. Simon asked Mr. Segalini if he believed the proposed construction would obstruct his view of the New York City skyline, to which Mr. Segalini responded yes.

Exhibit RS-3 was submitted by Mr. Simon, another photograph taken on November 1, 2017 at 9:36pm by Mr. Segalini at 39 Jane Street. The photo depicts the view from the street level of 39 Jane Street. The image includes trees alongside Paterson Avenue. Mr. Segalini noted that the trees appearing in the photograph would be removed under the application.

Mr. Thomas Bruinooge, Attorney for the Applicant, cross examined Mr. Segalini regarding the proposed building height and how it may block the skyline.

Cross examination of Mr. Segalini was opened to the public. Mr. John Saluppo came forward and asked Mr. Segalini if the proposed development would devalue Mr. Segalini's property, to which Mr. Segalini responded yes, noting that the impact of the view from his property would influence property value.

With no other member of the public wishing to be heard, the Board closed the cross examination to the public.

Mr. Mecca, Attorney for Ksertbas, Inc. came forward and introduced Mr. Hal Simoff of Madison, New Jersey, appearing as a professional planner and engineer.

Mr. Mecca introduced Exhibit RK-1, a scanned site plan that shows vehicular circulations around the proposed property. Mr. Simoff explained the exhibit depicts how an SU-40 truck maneuvers on the street getting to and from the proposed property, noting that circulation is concerning especially for fire trucks gaining access to the site and the S turn may be problematic.

Mr. Mecca pointed out that there is no egress onto Route 17; therefore all traffic would be required to exit onto Paterson Avenue. Mr. Mecca asked Mr. Simoff whether a D3 variance is required; to which Mr. Simoff responded it would be. Mr. Mecca further asked Mr. Simoff if a D6 variance is needed, to which Mr. Simoff stated that if an applicant cannot meet the conditional use requirement, it must go back to the general use requirement.

As it pertains to the height of the proposed property Mr. Simoff stated that the intent is to limit the negative impact, however the height exceeds the requirement. Additionally, with no egress on Route 17, adding traffic to Paterson Avenue would negatively impacts the local traffic pattern.

Mr. Polifronio asked how much of the view would be blocked if the building was reduced in size to three stories, and 40 feet. Mr. Simoff responded that the blockage would be less. Mr. Polifronio noted that the vacant property will be utilized one way or another, and the limitations need to be known for anything built on the vacant land.

Mr. Bruinooge cross examined Mr. Simoff. Mr. Bruinooge noted that despite the SU-40 and SU-30 vehicles referenced in the exhibit submitted, the bulk of the vehicles to be utilized for the proposed facility type are "U-Haul" type/size trucks. Mr. Simoff responded that SU-40 is likely to be used for large furniture. Mr. Bruinooge stated that the development being proposed is a right in or right out only and the vehicle most convenient and effective to utilize for self-storage is a U-Haul type truck. Mr. Simoff responded that an ASHTU should be the only vehicles used for the utilization of the proposed property.

Mr. Simon cross examined Mr. Simoff, asking if the traffic conditions would be worsened by the proposed application, in comparison to the previously submitted application, to which Mr. Simoff responded yes. Mr. Simoff continued to note that the larger building would create a more constricted circulation pattern on site, as well as with entering and exiting.

Mr. Simon asked if Mr. Simoff felt the proposed building was more aesthetically comparable to an industrial building rather than an office building. Mr. Simoff responded that it was more industrial.

Mr. Bruinooge asked if Mr. Simoff had performed an independent traffic analysis of the area, to which Mr. Simoff responded he had not, but noted that a single unit truck cannot circulate the site.

The cross examination of Mr. Simoff was opened to the public.

Mr. Charles Flenner, on behalf of the East Rutherford Fire Department asked Mr. Simoff to expand on difficulties he previously mentioned related to the Fire Department would face getting to the proposed site. Mr. Simoff clarified by stating that it is more difficult for moving trucks, such as SU-40's and SU-30's to make a right turn than making a left turn. Chairman Alberta that the applicant met with the Fire Department to work out an effective plan.

After a short recess, the Board reconvened and Chairman Alberta informed the public that due to the time, the summation of arguments from all three attorneys would be carried until the next meeting scheduled for January 4, 2018. At the meeting, all three attorneys will summarize their arguments before allowing the board to make a decision on the application. He explained the reorganization meeting will be held on January 4th followed by the regular zoning board meeting and no further notice is required of the Applicant for this particular application.

With no further business to conduct, a motion was made by Mr. Vicarro and seconded by Mr. Martin to adjourn the meeting. All were in favor.

Minutes prepared by:

Tamar Lawful
Acting Secretary

John Giancaspro
Secretary