

BOROUGH OF SOUTH PLAINFIELD  
ZONING BOARD OF ADJUSTMENT MINUTES  
June 6, 2017

**Gino Leonardis** opened the meeting at 7:00 pm.

Please stand for the PLEDGE OF ALLEGIANCE.

This meeting was held in accordance with the Open Public Meeting Act and as such, proper notice of this meeting was published in The Observer and The Courier News and providing same to the Borough Clerk.

It is the policy of the South Plainfield Zoning Board of Adjustments, not to hear any new applications after 10:00 pm and no new witnesses after 10:30 pm.

**ROLL CALL:**

**Present:**

**Gino Leonardis, Chairman**  
**James Gustafson, Vice Chairman**  
**Ken Bonanno**  
**Maria Campagna**  
**Darlene Cullen, 1st Alternate**  
**Cindy Eichler**  
**Robert Hughes**  
**Frank Lemos**  
**April Wasnick, 2<sup>nd</sup> Alternate**

**Absent:**

**Also attending:** Larry Lavender, Esq.; Stanley Slachetka, PP, AICP; Bob Bucco, PE, CME, CPWM

**MINUTES:** (2)

April 18, 2017

Mrs. Campagna made motion, seconded by Mr. Lemos to accept the above listed Meeting Minutes. Those in favor: Mr. Bonanno; Mrs. Campagna; Mrs. Cullen; Mr. Hughes; Mr. Lemos; Vice Chairman Gustafson and Chairman Leonardis. Those oppose: None

May 2, 2017

Mrs. Eichler made motion, seconded by Mrs. Campagna to accept the above listed Meeting Minutes. Those in favor: Mr. Bonanno; Mrs. Campagna; Mrs. Eichler; Mr. Hughes; Mr. Lemos; and Chairman Leonardis. Those oppose: None

**RESOLUTIONS:** (5)

- A. Case #04-17 -- Shawn Janus**  
**Block 426: Lots 7: R-10 Zone**  
**140 New York Avenue**

Mrs. Cullen made motion, seconded by Vice Chairman Gustafson to accept the above listed Resolution. Those in favor: Mr. Bonanno; Mrs. Campagna; Mrs. Cullen; Mr. Hughes; Mr. Lemos; Vice Chairman Gustafson and Chairman Leonardis. Those oppose: None

- B. Case #18-16 -- James Felix Connors**  
**Block 539: Lots 5: OPA-1 Zone**  
**100 Main Street**

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Mr. Lemos made motion, seconded by Mrs. Cullen to accept the above listed Resolution. Those in favor: Mr. Bonanno; Mrs. Campagna; Mrs. Cullen; Mr. Hughes; Mr. Lemos; Vice Chairman Gustafson and Chairman Leonardis. Those oppose: None

**C. Case #12-17 -- Dolores Martin  
Block 148: Lot 2: R-7.5 Zone  
1115 Walnut Avenue**

Mrs. Campagna made motion, seconded by Mr. Lemos to accept the above listed Resolution. Those in favor: Mr. Bonanno; Mrs. Campagna; Mrs. Eichler; Mr. Hughes; Mr. Lemos; and Chairman Leonardis. Those oppose: None

**D. Case #03-17 -- Verizon New Jersey Inc.  
Block 528.01: Lot 46: OBC-3 Zone  
6000 Hadley Road**

Mrs. Eichler made motion, seconded by Mrs. Campagna to accept the above listed Resolution. Those in favor: Mr. Bonanno; Mrs. Campagna; Mrs. Eichler; Mr. Hughes; Mr. Lemos; and Chairman Leonardis. Those oppose: None

**E. Case #11-16 -- A-Tech Landscape Design Inc.  
Block 294: Lot 1: M-3 Zone  
1525 New Market Avenue**

Mrs. Cullen made motion, seconded by Mr. Lemos to accept the above listed revised Resolution. Those in favor: Mr. Bonanno; Mrs. Campagna; Mrs. Cullen; Mrs. Eichler; Mr. Lemos; Vice Chairman Gustafson and Chairman Leonardis. Those oppose: None

**HEARING:** (2 Residential – 2 Commercial)

**A. Case #04-16 -- Robert Cusick  
Block 311: Lot 9: R-10 Zone  
1055 New Market Avenue**

The applicant is requesting Preliminary and Final Site Plan with Use and Bulk Variances.  
Continued from January 17, 2017 hearing.

Chairman Leonardis reads a letter addressed to Joanne Broderick, Planning/Zoning Secretary requesting to have the meeting adjourned to the August 18, 2017 meeting. The submission of the revised plans did not meet the ten (10) day requirement. The Board agreed and the hearing is scheduled for August 18, 2017.

**B. Case #18-17 -- Performance Building Enterprises LLC  
Block 43: Lot 11: R-7.5 Zone  
125 Rahway Avenue**

The applicant is requesting a side yard setback and lot width for a pre-existing non-conforming structure for a rear addition and front porch. Side setback: Existing 6' -- Required 8'. Lot width: Existing 50' -- Required 75'.

Vice Chairman Gustafson was a neighbor and his mother currently a neighbor of the residence. He believes he cannot fairly evaluate this case. Therefore, he has recused himself.

Dave Frances Esq, attorney for the applicant addresses the Board. The applicant would like to build an addition onto the rear of the existing house and a front porch. It will encroach two feet (2') on the side yard. The existing house is six feet (6') from the side where eight feet (8') is required. Seeking to build an addition and front porch so it aligns with the existing house.

Pete Haborak – 135 Grove Street, Woodbridge, New Jersey – builder, is sworn in. Mr. Haborak addresses the Board.

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- Existing cape cod style home.
- Foreclosed. Vacant.
- Run-down condition.
- Proposing:
  - Add-A-Level. Creating a two (2) story home.
  - Bump out the back.
  - Add family room – 16' X 20'.
  - Add front porch.
- All other setbacks are compliant.
- Existing: Four (4) bedroom cape. Two (2) bedrooms upstairs and two (2) bedrooms downstairs.
- Keeping four (4) bedrooms but all on the second floor.

Chairman Leonardis questioned Mr. Haborak:

- Height of the structure? Approximately, twenty-seven feet (27') to the ridge line.
- Covered porch? Yes.
- Enclosed? No... open front porch.
- Exterior? All vinyl siding.
- Any stone? Stucco? No stone... no stucco.
- If application approved, would you agree not to enclose the porch? Yes.
- How far from each side are the neighbors' homes? Right side neighbor, approximately twenty feet (20'). Left side, approximately twenty feet (20').
- Are the neighbors' homes one story or two stories? Approximately one and a half stories.... One side is a split level and the other side is a cape.
- Windows in the attic? Yes... it will be a walk-up attic.
- What is the purpose? A bonus room... bonus space.
- If application is approved, would you agree to top type windows rather than a full-size window where people can look down? They would have to be egress windows.
- They are not able to open? They are there for light? There is no issue building wise to have windows on the third floor. Chairman Leonardis continues... when you have a story and a half house next to you that is ten to 15 feet (10'-15') away, you are looking down into their bedroom. Mr. Haborak stated he can put a dormer in. He has to have one (1) egress window in the attic.
- Will it be finished? Yes.
- Will someone live there? No... there will be no door to the attic. It is an open bonus space.
- Electricity? Yes... it will be a finished space.
- Conditioned? Yes.
- Pull up door? No... a full flight of stairs. It will be a walk-up attic.
- What prevents someone from making that into another bedroom? Not making it into a bedroom. In previous houses that he has built, people have made that room into an office or workout room.

Mr. Lemos asked Mr. Haborak what do you mean by a finished attic. Mr. Haborak responded, it will be sheet rocked and everything. Mr. Lemos stated he does not see a purpose in doing so. Mr. Haborak stated its bonus space. Today's world, most people work from home. It gives them space for a home office or gym.

Mrs. Campagna reconfirmed with Mr. Haborak, the attic space will not have pull down stairs. Mrs. Campagna stated she does not have plans in front of her. Chairman Leonardis stated he does not either. The attic is not shown on the plans submitted with the application. There is a first floor and second floor... no third floor drawing.

Mrs. Campagna continues to question Mr. Haborak:

- What is the height of the house? Twenty-seven and a half feet (27.5')... well below the thirty-five feet (35').
- The addition to the back will it be a two story or three story? It will be two story.
- When completed, what will be on the first floor? Kitchen, dining room, family room, living room, laundry room and bathroom.
- No bedrooms? No bedrooms.

Mr. Lavender asked Mr. Haborak the dimensions of the attic. Per Mr. Haborak it will be a third of the floor – three hundred fifty-seven (357) square feet of habitable attic. Therefore, 30' x 12'. Mr. Lavender continued... will there be a bathroom? Mr. Haborak stated no.

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Mrs. Campagna asked what will be on the second floor. Mr. Haborak stated four (4) bedrooms and two (2) bathrooms. Mrs. Campagna requested the size of the bedrooms. Per Mr. Haborak – two (2) bedrooms will be approximately 12'X10'; one (1) will be approximately 11'X11'; master bedroom will be approximately 16'X20'. Mrs. Campagna continued.... From the first floor to the second will be stairs. From the second floor to the attic another set of stairs. Mr. Haborak stated correct. Mrs. Campagna asked for the dimension of the attic. Per Mr. Haborak, approximately 12'X30'.

Mr. Lemos asked if the house will be rented. Mr. Haborak stated no... it is for sale.

Mrs. Campagna stated that the attic will be one big space. Will there be any attic space? Mr. Haborak stated yes... the eaves will be storage space. Mrs. Campagna asked if there will be any pull-down steps. Per Mr. Haborak... no. Mrs. Campagna continued... it will be one big space? No additional rooms? Mr. Haborak stated correct. Mrs. Campagna asked if Mr. Haborak is the contractor. Mr. Haborak stated yes. Who is the owner?

Bill Croteau – 7 Overlook Drive, Colonia, New Jersey – owner of the property, is sworn in.

Mrs. Campagna questioned Mr. Croteau:

- Is he going to live in the house? No... It is a house he is building to sell.
- How are you going to sell the house as? It is a one family home with four (4) bedrooms and two and a half (2.5) bathrooms.
- What do you consider the room on the third floor? Has built homes like this many times with the extra space. Instead of a finished basement, this is a better space for the house. It adds three hundred (300) square feet of livable space. Rather putting your office in the basement, you have a large room upstairs, TV room, man cave etc.
- Is there a finished basement? No there is not.
- What is in the basement? Unfinished space. Concrete floor and cinder block walls.
- No heating? No... the heating system will be up in the attic. The hot water heater will be in the basement.

Mr. Lavender stated that the Chairman has a valid point about the windows at that height looking down at the neighbors. Mr. Haborak stated that on one (1) side of the house is the driveway. He is not opposed putting one window on the side and putting a transient window on the other. To building code, needs one window.

Mr. Hughes stated if it is not livable space, why do you need an escape route? Mr. Haborak stated it is livable space. By code, there needs to be two (2) ways of egress. You have the stairs and the window. Mr. Hughes continued... the eaves are storage. You have storage in a finished space... it's a bedroom. You can put hinges on and it's a closet. Mr. Haborak stated it will be a five foot (5') knee wall. There will be no door at the stairs. The stairs will be open. There will be no walls upstairs.

Mrs. Cullen asked why is it not shown on the plans. Chairman Leonardis agreed. Chairman Leonardis continued... would a license architect not show a space in print? You didn't represent the finished space in the attic. Mr. Haborak stated it is shown in the building data. Chairman Leonardis continued... If we were able to look at what the finished space will look like, we may be able to say put the window someplace else like the back of the house. Mr. Haborak stated on the elevations, the finish space will go from side to side. The stairs will come up in the middle of the house. Chairman Leonardis stated he can figure that out but the plans should show the details of the attic. Someone who does not have some architectural background would not pick that up.

Mrs. Cullen stated that through testimony, it is a bonus room. The bonus room should be shown on the plans if it is going to be sold as a bonus room and not just an attic.

Chairman Leonardis asked what side is the closest to your neighbors... the east side? Mr. Haborak stated both sides are the about the same. The west side has the driveway, trees and a hedge row. Mr. Lavender suggested front and back windows. Mr. Haborak stated he can enlarge the dormer and add a window. They are designed as a false peak. Chairman Leonardis agreed with the idea. Chairman Leonardis stated that when you are looking down the window, you will be looking into the cape cod next door. He is not concerned about the living space or the fact that it is not on the plans. His concern is looking down at the neighbor's house which is a story and half lower.

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Mr. Lavender asked Mr. Haborak if he is able to remove the windows on the side and put them in the front and back. Mr. Haborak stated yes. Mr. Lavender continued... if the application is approved, that will be a condition of approval. Mr. Haborak agreed.

Mrs. Campagna asked Mr. Haborak if the house will look like it does in the plans with the dormer? Mr. Haborak stated yes, but we will have to make them taller in order to fit windows. Mrs. Campagna continued... it is not an add-a-level to the whole house? Only the back of the house? Mr. Haborak stated it is an add-a-level to the whole house.

Chairman Leonardis asked if there will be any enhancements to the property.

- New driveway.
- New sod planted.
- Garage fixed up to match house.
  - Mrs. Campagna asked it is a masonry garage and it will be sided? Yes... sided and new roof.
  - Mr. Haborak stated there was a fire in the garage.
  - Garage size is 12'X20'.
- Shed removed.
- No new fences.

Mr. Bononno stated that after the house is sold, someone can turn the third floor into three (3) bedrooms. Mr. Haborak stated anyone can do anything once it is sold but it is not the intention. There will be no door. Upstairs will not be enclosed.

Mr. Lavender stated if the window issue is resolved there is no prohibition on the space. The Board has no authority to prohibit bedrooms. Mr. Slachetka agreed. He continued by stating that constructions codes will have minimum sizes. Mr. Lavender stated that there will have to be windows. Therefore, if you manage the windows, that would limit as to what can be put there. Mr. Slachetka agreed.

Mr. Lavender asked if there would be any fencing added. Mr. Croteau stated no new fencing. There will be some landscaping in the front by the porch. Grass seed in the back where grass is distributed. New driveway. New path from the driveway to the home.

Chairman Leonardis asked to confirm the height of the proposed structure to the peak. Mr. Haborak stated thirty-two feet (32'). Chairman Leonardis continued... what are the other homes in the neighborhood. Mr. Haborak stated there is a split on one side and a cape on the other. Across the street there is a two story. On Plainfield Avenue, there is a newer two-story house. Chairman Leonardis asked if the attic space will be full height. Per Mr. Haborak, it will be seven feet (7'). It is the slope of the roof. There will only be a five-foot (5') center that is walkable.

Mr. Bonanno reiterated... it would be five feet (5') in the middle and storage to the left and right. Mr. Haborak stated yes.

Chairman Leonardis asked how high is the existing structure. Mr. Haborak responded approximate twenty-one to twenty-two (21-22) feet. Chairman Leonardis continued... if there is no bonus room, how many feet would be removed. How much can the house be lowered so it would not be so tunnel like? Mr. Haborak stated you can make the pitch of the roof whatever you want but it's the curb appeal. It is not going to look any taller than any other cape that has a walk up attic. Basically, still the same thing. Chairman Leonardis stated that he is having issues with the height of the structure. Taking an existing structure and build higher by ten feet (10') with smaller homes in the neighborhood.

Maria Campagna stated she thought it was twenty-seven feet (27') tall but now it's thirty-two feet (32') and currently it is twenty-one feet (21'). The add-a-level, going up seven feet (7') is acceptable. It is out of character.

As a whole, the Board believes the proposed structure will be too tall.

Mr. Slachetka addressed the Board. The building height is in accordance with the ordinance. My perception is that the concern is the height in context in the variance that is to be granted. Bulk width required is seventy-five feet (75') and a six foot (6') side yard setback.

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Chairman Leonardis stated it is a very narrow lot and it is going high. If this height was on a lot that was much wider, the houses were all centered to the lots, we would be looking at something different.

Mr. Haborak stated he can lower the roof to thirty feet (30'). The Board agreed that is still too high. Mr. Haborak stated he is allowed thirty-five feet (35') in the zone. Chairman Leonardis stated you are allowed to go thirty-five feet (35') high. However, you are also requesting an extension of a pre-existing condition.

Chairman Leonardis asked how big are the lots next door. Mr. Haborak stated he believes 50' X 150. Mr. Lemos stated they are all about the same. Mr. Haborak stated the whole neighborhood is non-conforming. Mr. Lavender stated the Board is not disputing that.

Chairman Leonardis stated this is a fifty foot (50') wide lot. He understands that this is an economic situation... but economics is not about this Board. He understands that the bonus room is to make more money. The Board is stating that this house as proposed does not fit on a fifty foot (50') wide lot. How do you propose to get the height down? Mr. Haborak stated without the bonus room they cannot get the square footage amount that they would like.

Mr. Croteau stated he has built six (6) of these homes this past year and they all look esthetically pleasing. They have been sold in three (3) to four (4) days. On the block, there is every style of home.

Chairman Leonardis stated from a business standpoint, it makes all the sense in the world.

Mr. Hughes asked if this structure would be the only one at this height. Mr. Haborak stated there is a house on Plainfield Avenue that's about thirty feet (30'). Chairman Leonardis stated it is on a larger lot.

Mr. Lemos suggested that this application should be put to vote.

Chairman Leonardis asked what would the applicant like the Board to consider. Mr. Haborak stated that he would need twenty-eight feet (28').

Mr. Lavender stated that the applicant has their right to a vote. However, he suggested that the applicant may want to come back with another plan. Chairman Leonardis agreed with the suggestion. Chairman Leonardis added that the drawings that the architect prepared does not show any vertical height. Mr. Lavender suggested additional drawings. Mr. Haborak stated on page 2 the elevation is listed. Chairman Leonardis apologizes. The height is in the crease.

Chairman Leonardis suggested that the applicant take another look at the drawings and come back or it can be put to vote. Mr. Haborak asked if twenty-eight feet (28') is acceptable. Mrs. Campagna stated needs to see something substantial. Maybe even houses that are same size lot.

Mr. Hughes stated that other applicants show a picture of the area. What the other houses look like. That would be helpful for this case.

Chairman Leonardis stated that the applicant is proposing to knock the roof line to twenty-eight feet (28'). He suggests to put drawings together proposing the bonus room.

Mr. Croteau asked to return on July 18, 2017. The Board agreed. Hearing is adjourned to July 18, 2017.

**C. Case #14-17 -- Socha Enterprises LLC  
Block 446: Lot 7: M-3  
111 St. Nicholas Avenue**

The applicant is requesting a Preliminary and Final Site Plan with Use and Bulk Variances.

James F. Clarkin, III – Clarkin & Vignuola, PC, 1100 Centennial Avenue, Suite 203, Piscataway, New Jersey – attorney for applicant addressed the Board.

Chairman Leonardis discloses that he has had work done by Mr. Socha, the applicant. Mr. Clarkin stated that this information is worthy of disclosure but does not disqualify. Vice Chairman Gustafson also discloses he has had work

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done by Mr. Socha. Mr. Clarkin stated that his services being performed where he is now to where he wants to be is the same.

Mr. Clarkin continued with the hearing. The application is for a use variance to permit a motor vehicle repair facility located in the M-3 zone – a heavy industrial zone. All though M-3 is the most permissible of the zone, a motor vehicle repair facility is not a permitted use. Those who have been on the Board for a long time, may remember that the Board granted a bank to be constructed on this property. As the Board knows, the bank has been closed for many years and this is a non-productive piece of property. Proposing to replace one non-conforming use with another. However, this one fits far better in the character of the neighborhood then the bank. The Board approved a cross-fit training center approximate three (3) years ago. More recently, the Board approved the All-Season Sports facility on Hamilton Boulevard. Both properties were adapted reuses and both are in the M-3 zone. Also requested a side yard setback variance to achieve a superior design for the traffic circulation for the site. There will be testimony that you will hear that the applicant receives approximately twenty (20) deliveries per day. Traffic circulation is of critical importance. The Planners report suggests that there may be an issue regarding the number of parking stalls. After further review of the Zoning Ordinance in section 600, there is no standard for a garage or repair facility. Therefore, when you look at the conditional use standard, there is a four (4) parking spaces for each repair bay plus one (1) space for every employee on the maximum shift. Based on four (4) repair bays and six (6) employees, there are a conforming number of spaces. Also, there is an existing non-conforming lot width situation. Short by 2.5 feet out of 200 feet.... Approximately one percent (1%). The applicant has downsized the free-standing sign. Therefore, not requesting a variance relief. The sign will be thirty-two feet (32') or less. Also requesting preliminary and final site plan approval. There are three (3) witnesses... Michael Socha the owner and operator of the business, Steve Parker, Engineer and Angelo Valtutto, Planner and Engineer.

Michael Socha – 167 Somerset Avenue, South Plainfield, New Jersey – owner and operator, is sworn in. Mr. Clarkin questioned Mr. Socha:

- Owner of property.
- Owner of repair business.
- Has owned the business for seven and a half (7.5) years.
- Outgrown current location.
- Hours of operation: 8 am to 6 pm Monday through Saturday.
- Hours of operation will remain the same at new facility.
- Currently, four (4) employees. If application approved, will be adding two (2) employees.
- Repairs cars, box trucks, SUV, limos, pick-up trucks. No tractor trailers.
- No body work or painting.
- No inspections. If application approved, would like to.
- Proposing four (4) repair bays.
- All repair work to be done inside.
- No more than twelve (12) vehicles outside waiting for service or to be pickup by owner.
- No impound vehicles.
- No washing or detailing.
- No fueling or fueling storage tank.
- No long term storage of vehicles.
- No vehicles will be displayed for sale.
- Will not sell any vehicles.
- No tires or other items displayed outside for sale.
- No retail sale such as pre-packaged foods or beverages.
- No other tenants will occupy facility.
- Deliveries done by small vehicles. At times FedEx or UPS truck deliveries. Sometimes box truck.
- Approximately twenty (20) deliveries per day. Vehicle parts.
- Deliveries will be made to a manned door on east side of building.
- No tractor trailers on site.
- Mercury Oil Recover picks up motor vehicle fluids once a month for engine oil and antifreeze.
- Free standing sign in the lawn area in the south-western corner closes to South Clinton Avenue.
- Reducing sign size. Therefore, no variance required.
- Mr. Winkle prepared floor plans and elevations.
  - Using the same plans before the Board, Mr. Socha demonstrated:

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- First Floor:
  - Front door to waiting room for customers.
  - Customer conference room.
  - Mr. Socha's office.
  - Customer bathroom.
  - Employee bathroom.
  - Additional bathroom in the back for shop employees.
  - Lunch room.
  - Locker room.
  - Storage.
  - Repair area.
- Second Floor:
  - Not a full floor.
  - Conference room.
  - Office.
  - Storage area.
  - Exercise room.
- Elevations were prepared
  - Front elevation.
    - Three (3) bay doors.
    - Sign stating "Auto Tech".
  - Second elevation – Right side closer to Kennedy.
    - Bay doors.
    - Façade sign.
  - Not shown on the plans – man doors. If application is approved, would like the ability to revise plans to add man door. One (1) door for deliveries.

Chairman Leonardis asked if the exercise room will be leased out to a trainer. Mr. Socha stated no... it is for the employees only.

Using page 3 of 7, Mr. Socha demonstrated the location of the three (3) man door: next to a bay door - near the loading area - in the back.

Mr. Clarkin asked Mr. Socha if he is willing to designate employee parking as requested. Mr. Socha responded yes.

Chairman Leonardis questioned Mr. Socha:

- Will each bay have a lift? Yes. There will be a few more inside.
- Any Sunday work? Not open for business. However, Mr. Socha does work on Sunday's to catch up on work and paperwork. Does not plan to be open for business on Sunday's.
- Hours 8 am to 6 pm.

Mr. Clarkin asked Mr. Socha to demonstrate the tire storage. He points to the rear of the building. Mr. Clarkin asked in response of the Environmental Commission report, is he willing to put a lid on it so the tires do not fill up with water and cause a mosquito's issues. Per Mr. Socha, 'of course'.

Vice Chairman Gustafson requested a picture of the tire enclosure. Mr. Clarkin does not have one. Vice Chairman Gustafson asked if this is a large structure. Mr. Clarkin stated no.... like a shed roof.

Vice Chairman Gustafson asked Mr. Socha to describe the flow of traffic on site. Other facilities that have been approved have had major site violations and parking violations as far as what the variances have allowed. Mr. Socha stated he understands the issue. He has the issue at the current location. There is no room. The proposed facility is much larger. He is able to keep vehicles inside. Vice Chairman Gustafson continued... what is the intension of the parking stalls in the front as oppose to the parking stalls to the east. Mr. Clarkin replied, the front is designated for compact cars: to the east would be employee parking. The fifty feet (50') deep spaces were drawn in error. They will not be fifty feet (50') deep. Mr. Clarkin asked Mr. Socha what is the largest vehicle that he repairs... the Dodge Sprinter approximately twenty feet (20') long. Vice Chairman Gustafson stated that Mr. Socha has the room to accommodate the larger vehicle and not park them where it is designated compact car. If a limo comes in, where will



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it be parked? Mr. Socha pointed to the area further back in the area where the fifty feet (50') spaces were drawn in in error. Vice Chairman Gustafson stated the reasoning for his questioning is he would like to see everything esthetically pleasing. Mr. Socha agreed. Mr. Socha stated that the structure will be steel paneling. The reason he wants a large inside area so cars are not left outside.

Mr. Clarkin stated as a volunteer condition, vehicles will not be doubled stacked. They will be in assigned parking spaces and will bring all extra cars inside each evening.

Mr. Lemos asked if there is the ability to get behind the building. Mr. Socha pointed to the area on the site plan where the back can be accessed. Mr. Lemos continued... his concern is the ability of fire engines to move about the site. Mr. Lemos asked what is to the left of the site. Mr. Clarkin stated a contractors' storage yard and parking lot. Mr. Clarkin continued that he will supply the turning templates. Also, that the Assistant Fire Marshall had five (5) recommendations and had no issue with the access to be able to fight a fire.

Mrs. Campagna asked Mr. Socha how many cars is he able to put inside the facility. Mr. Socha responded twelve (12). Mrs. Campagna continued... if a car is brought in that broke down on a highway somewhere, how do you get it in the building? Mr. Socha stated, we would push it in.

Mr. Lemos asked if there will be any plantings. Mr. Clarkin stated yes. There was a suggestion of three (3) trees added which will be done.

With no further questions from the Board members, Chairman Leonardis opens the discussion to the audience. No questions or concerns from the audience.

Stephen E. Parker, PE – Parker Engineering, 370 East Main Street, Somerville, New Jersey – Engineer for the applicant, is accepted as a Professional Engineer and sworn in. Mr. Clarkin questioned Mr. Parker:

- Existing PNC Bank building with parking lot, driveways and drive up window.
- All will be demolished.
- West of property is Anthony Equipment that fronts South Clinton Avenue as a contractors storage yard.
- East of property is a trucking business. Primarily parking for trucks and trailers.
- Behind the property is a wooded area.
- New building, parking lot, lighting and landscape.
- Parking stalls to the east of the property can be made shorter.
- The first stall will be forty-five feet (45') as a loading zone. Remainder will be thirty feet (30').
- Front area will have parking for compact cars.
- Will designate six (6) employee parking on the east portion of the parking lot.
- Nothing proposed on the plans for storm water management. Will discuss.

Mr. Clarkin reviews Najarian Associates review letter dated May 3, 2017 with Mr. Parker starting on page 2:

- Section C – Variance / Design Waivers
  - # 1 – Traffic report. Mr. Bucco stated in the letter that he had no objection granting the waiver.
  - # 2 – Environmental Impact Statement. Mr. Bucco nor Dr. Tempel have objections to granting the waiver.
  - # 3 – Storm Water Management Plan / Drainage Calculation. Will provide calculations.
  - # 4 – Waiver of location of buildings and structures. Partial waiver. Will supply for adjacent Lot 6.
  - # 5 – Testimony given.
  - # 6 – Variance lot width. Pre-existing condition.
  - # 7 – No longer a conditional use. Proposing thirty feet (30') width driveway.
- Section D – Site Plan Check List Compliance.
  - # 1 – Statement.
  - # 2 – Sign is on sheet 3. However, will be amended. Being downsized.
  - # 3 – Previously discussed.
- Section E – Site Plan Check List Basic Details
  - # 1, 2, 5, 6 & 7 – Will comply.
  - # 3 – Previously discussed. Will comply.
  - # 4 – Previously discussed.
  - # 8 – Will provide calculations.
  - # 9 & 10 – Will comply only if receive approval.

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- Section F – Off-Site and Off-Tract Improvements
  - # 1 – Previously discussed.
  - # 2 – Granted in 1983 application.
  - # 3 & 4 – Will comply
- Section G – Site Requirements / Layout
  - # 1 – Testimony given. Mostly parts.
  - # 2 – Proposing 4.7'. Will comply to 5'.
  - # 3 & 5 – Will comply.
  - # 4 – Testimony given.
- Section H – Traffic
  - # 1 – Less traffic then previous owner.
  - # 2 – Will sign.
  - # 3, 4, 7 10 & 11 – Will comply.
  - # 5 – Do not have any.
  - # 6 - Testimony given.
  - # 8 – Previously discussed.
  - # 9 – Limited access in the rear. Fire Marshall did not list as a concern.
- Section I – Grading / Drainage
  - # 1 – Comment.
  - # 2 – Duplicate comment.
  - # 3, 4 & 5 – Will comply.
  - # 6 – Agree.
- Section J – Landscaping
  - # 1a – Will try to save the evergreens.
  - # 1b, 1c, 1d & 6 – Will comply.
  - # 2 – Will comply. Vice Chairman Gustafson asked if there will be sprinklers. Per Mr. Clarkin, no.
  - # 3 - Dumpster Screening. Prefer not to. In an industrial area. Do not believe it is necessary. Chairman Leonardis stated that on the plans there is an enclosure. Mr. Parker stated that the east side of the enclosure is not screened. Enclosed by fence. Only north and south side will have landscaping – the sides that are viewable by the public. Mr. Bucco and Chairman Leonardis are satisfied. Chairman Leonardis asked if the fence will be board on board. Mr. Parker stated yes.
- Section K – Lighting
  - # 1 – Sheet 5. Mr. Parker stated that the perimeter lighting is directed into the parking area to avoid putting a pole in the middle of the parking lot. Can increase the height and / or intensity of the lights if necessary. Mr. Bucco is satisfied with the perimeter lighting testimony. Chairman Leonardis asked if there is an issue, will the applicant agree to change the intensity of the lights. Mr. Clarkin stated yes. Mr. Slachetka stated that in the area of the tires holding bin, there is no lighting. He is suggesting a motion type of lighting. Mr. Clarkin stated they will comply
  - # 2 & 4 – Will correct.
  - # 3 – Per Mr. Parker, there will be no adverse effect.
- Section L – Utilities
  - # 1 – Will comply.
- Section M – Environmental
  - # 1 – Mr. Clarkin introduces Exhibit A-1 – A report from Environmental Technology Inc. dated April 27, 2017. Mr. Clarkin read the following excerpt from the report: “NJDEP freshwater wetlands maps identify wetlands along the northern boundary of the site, however no wetlands are present in any of these areas. This is not uncommon since the wetlands maps are based on high altitude photography and are not field verified, serving merely as a guide.” Mr. Clarkin asked the Board to accept the explanations.
  - # 2 – Will comply.
- Section N – Technical Site Comments
  - # 1-8, 10-16, 18-23, 25-29 – Will comply.
  - # 9 – Will provide.
  - # 17 – Previous discussed.
  - # 24 – Mr. Parker stated the details requested is on sheet 4 of the plans. Mr. Bucco is requesting more information. Mr. Parker will provide additional information.

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- Section 0 – Outside Approval
  - Mr. Clarkin stated he has a letter from Middlesex County dated April 12, 2017 stating that the property is exempt. He will forward the letter to Mr. Bucco.

Mr. Clarkin reviews the Bureau of Fire Prevention review letter dated April 6, 2017:

- Item 1 & 5 – Will comply.
- Item 2 – Agree.
- Item 3 – No.
- Item 4 – Yes.

Mr. Clarkin reviews the Environmental Commission review letter dated April 18, 2017. All items were previously discussed except the ‘tree root ball’. Will make the correction.

Mr. Clarkin stated that in the Najarian Associates review letter there was mention of adding trees. They will plant two (2) trees in the lawn area on the west side and one (1) on the east side. There are existing shrubs.

Mr. Clarkin asked Mr. Slachetka if there were any items in the review that has not been addressed by the engineer. Mr. Slachetka stated that all items were addressed.

Chairman Leonardis asked to describe the esthetics of the proposed building. Mr. Clarkin stated the structure will be metal panels with glass overhead doors. Chairman Leonardis reiterates it will be an insulated steel structure with metal panels.

Chairman Leonardis asked if the “Auto Tech” sign on the building will be lit. Per Mr. Clarkin, yes... back lit.

Vice Chairman Gustafson asked if the structure will be pre-fabricated. Mr. Socha stated yes with a little custom area because of the shape.

Chairman Leonardis asked if there will be heat and air conditioning. Mr. Socha stated there will be heat in the bays. Fans as well.

Chairman Leonardis asked Mr. Parker that on the existing condition drawing's, there are 12" RCP going into 6" ACP and then back up to 12". Mr. Parker stated that all the drainage will be removed and replaced with all new. Mr. Bucco requested that Mr. Parker add a note to the plans that the drainage will be removed. Mr. Parker agreed.

Vice Chairman Gustafson asked if there would be any fencing. Mr. Parker responded only in the two (2) spots.

Mr. Lemos asked if the area will be enclosed with a gate. Mr. Parker stated it will not.

With no further questions from the Board, Chairman Leonardis opens the discussion to the audience. There were no questions or concerns from the audience.

Angelo J. Valetutto – AJV Engineering, 424 Amboy Avenue, Woodbridge, New Jersey – is sworn in and accepted as a Professional Planner and Professional Engineer. Mr. Clarkin questioned Mr. Valetutto:

- Has reviewed the Master Plan and Zoning Ordinance.
- Has visited the site and surrounding neighborhood.
- Concurs with previous descriptions and remarks of the site and surrounding uses including the lot area, zone, the existing bank has a drive through area in the back with two (2) spaces with no bypass lanes.
- Proposing a use variance, a bulk variance regarding the side yard setback which has been referred to as lot 6 owned by J. Anthony Construction. Along the property line is a chain link fence with white slats. The existing J. Anthony Construction building is approximate one hundred feet (100') from the proposed structure and situated in the far south-west corner fronting South Clinton Avenue. The balance of the property is equipment storage.
- Continue existing lot width of 197.54 feet. Required is 200 feet. Previously approved for the bank.
- The use can be justified by the fact that the building has been vacant in the M-3 zone for some time.
- Through his experience, the last few years there is little market in today's world for the permitted uses in a M-3 zone.

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- M-3 zone permits the uses in the M-1 zone... Office building, laboratories and light manufacturing. Office building market is stagnate. The location of the property is not ideal for an office building even though there will be office space in the new structure. However, it is solely for the use in the support of the business.
- The property is suitable for the proposed use. The size and shape is a good match for the type of facility. The need for substantial number parking spaces and to proceed a safe interior circulation. Mr. Socha is looking to make a big step. He currently rents in the Borough. He is looking to build and be the owner of the property. He could have built a substantially smaller than he is proposing. Speaking the truth and from his heart he wants to build something he will be proud of and the Borough would be proud of. He admits that were he is currently and the confined space he has to do so to function. Building a larger building and having the ability to store up to twelve (12) vehicles inside and can work more efficiently.
- The properties in the area are substantially larger.
- The property has been vacant for a number of years which renders the property unique. The existing building is structurally sound. It does meet all the standards in an M-3 zone. However, it has been unoccupied for a number of years.
- A single purpose building. A factor as to why the building has been vacant.
- The goals and objectives that would be furthered by granting the use variance are 40:55D-2:
  - a. *Guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals and general welfare.*
  - c. *To provide adequate light, air and open space.*
  - i. *To promote a desirable visual environment through creative development techniques and good civic design and arrangements.*
- Master Plan in its own review there is a minimum increase in industrial activity which supports the earlier testimony why this property has been vacant. Property would be ecstatically improved.
- Side yard setback variance is the vacant lot will become productive. The use is not permitted but it consistent with the uses in the area. M-3 zone is the most permissive in the Borough. The adjoining lot 6 is most effective by the side yard setback. The common property line has a six foot (6') fence with white slats and maintained properly. The existing building is one hundred feet (100') away from the property. The use along the property is storage of various equipment.
- Negative Criteria:
  - No impairment to the Borough's zone plan, Master Plan or Zoning Ordinance.
  - No detriment to the neighboring properties for use or variance.
- Meets enhanced standard of proof. Previous use granted and abandon for number of years. The proposed use in more in compliance with the surrounding uses.

Stanley Slachetka asked Mr. Valetutto if he is suggesting the all the uses in a M-3 zone are not practical. Mr. Valetutto replied that this particular property and building. Mr. Slachetka reiterates the reference in terms of reconciliation is based on the prior grant of variance. This new use would be more in conformance to the ordinance. Mr. Valetutto added with the surrounding uses. Mr. Slachetka stated that this change circumstance is more related to the nature of the success of the use previous permitted. Mr. Valetutto responded correct.

Chairman Leonardis stated that the person who prepared the drawings, Roger Winkle, on the detail page 3 of 3... "right side elevation west" should be "east".

Chairman Leonardis stated if this is approved this evening, when do you foresee construction to begin and completed. Mr. Socha stated as soon as he is able to get the paperwork to demo the existing building. He was told that it will take eight (8) to twelve (12) weeks to get a pre-fab building. Hoping to be done by October / November.

Mr. Slachetka stated there may be a variance required for parking. Mr. Clarkin stated it is not listed specifically. He would like to use the standard four (4) spaces for each bay and space for the maximum employees for each shift. Therefore, you have four (4) bays which is sixteen (16) and six (6) employees which makes twenty-two (22). The inside can store twelve (12) vehicles which makes thirty-four (34) and a loading space which marks thirty-five (35). They have thirty-six (36). He does not believe they need a parking variance. Mr. Bucco stated they calculated thirty-four (34) spaces.

Chairman Leonardis asked for a clarification, the north spaces will be reduced to thirty feet (30'). Mr. Clarkin stated yes.

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With no further questions or concerns from the Board, Chairman Leonardis opens the discussion to the audience. No audience questions or concerns.

Chairman Leonardis asked Mr. Clarkin to review the bulk variances. Mr. Clarkin stated the bulk variances are as follows: Side yard setback (westerly) 30' required – 10' proposed; continuation of existing non-conformed lot width 200' required – 197.54' proposed.

Chairman Leonardis stated that the items that were discussed the first and most important is the re-use of the land. It has been vacant for three (3) to four (4) years or more. Having a repair shop in the area of heavy industrial uses with construction equipment, rigging and trucking will fit in the neighborhood. A esthetically pleasing building. The fact that a business is looking to expand in the municipality is a big deal.

With no further questions or concerns, Chairman Leonardis calls for a motion to approve preliminary and final site plan with variances that were discussed. Mr. Lemos made motion, seconded by Mr. Bonanno. Those in favor: Mr. Bonanno; Mrs. Campagna; Mrs. Cullen; Mrs. Eichler; Mr. Hughes; Mr. Lemos; Vice Chairman Gustafson and Chairman Leonardis. Those oppose: None

Chairman Leonardis called for a ten (10) minute recess.

**D. Case #13-17 -- Teitelbaum Partners LP  
Block 518: Lot 1: OPA-1  
140 South Avenue**

The applicant is requesting an Interpretation and a Temporary Use Variance.

Aravind Aithal, Esq. – Bob Smith & Associates, 216 Stelton Road, Suite B1, Piscataway, New Jersey – attorney for the applicant addressed the Board. Filed an application in May 2017 seeking Interpretation of the Zoning Ordinance for this facility as a warehouse distribution. In the alterative we are asking for a use variance. This site used to house Restaurant Depot. The facility has moved to a new location. However, Restaurant Depot continues to use a portion of this building. This site was originally approved for this type of use. It was in the M-3 zone. In 2005, came before the Planning Board to permit Restaurant Depot to do wholesale business. When there was a revisit of the Master Plan in 2006-2007, there was a zone change to OPA-1. This use, warehouse distribution, is no longer permitted. Restaurant Depot continues to use a portion of the facility as warehouse distribution. Currently, seventy-six thousand plus (76,000+) square feet is vacant. There have been three (3) respective renters. When they found out that they have to go before the Board to get approval the walked away. Has three (3) witnesses this evening. The first witness is the third prospective tenant, came, looked and decided not to stay because the wait is too long. We are not proposing any changes to the site. If we cannot use it as a warehouse distribution facility, the only other option is to essentially kick out Restaurant Depot, tear down the building and build an office building. Essentially, we have been zoned into inutility.

Laura Nichols – 4 Camper Court, St. James, New York – is sworn in. Mr. Aithal questioned Ms. Nichols:

- Name of business – 3G Warehouse.
- Corporate headquarters is in Farmingdale, NY. Has an additional facility in Edison, NJ.
- Third prospective tenant... but went to a facility in Edison, NJ.
- Looked at the building in March. Signed lease at end of April. Found out beginning in May there was an issue.
- Signed lease with Edison last week in May.

Chairman Leonardis asked Ms. Nichols what type of business. Ms. Nichols stated it is a third-party logistics company. Warehouse and distribution. Shipping to Walmart and Target. eCommerce fulfillment. It is a great facility and a good fit for them... But the commercial real estate is very competitive. Was pressured to move out of existing facility. Ran out of space and needed to make some quick decisions.

Chairman Leonardis asked who made the interpretation that they had to come here. Mr. Aithal replied the Borough's Zoning Officer. The zoned changed. Had to come back to the Board.

Chairman Leonardis asked if the trucking company is the back has left. Mr. Aithal stated there is a trucking company in the back.

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Vice Chairman Gustafson stated this is an Interpretation case. Are you asking us to interpret the zone as it used to be. Mr. Aithal responded that they are asking for a use variance to permit them to advertise it on the market as warehouse distribution approved facility.

Chairman Leonardis asked Ms. Nichols to re-iterate about her business. Ms. Nichols stated they are warehousing and distributions. Products are received throughout the day and ship out pallet type shipments to stores or UPS or FedEx.

Mr. Aithal stated if a tenant is interested, there may be adjustment that would be made which means the Board retains jurisdiction. Currently, the facility cannot be used as distribution warehouse.

Vice Chairman Gustafson asked for the history of when the zone was changed.

Mr. Aithal stated in 2006 there was a Master Plan re-examination. In 2007, the Governing Body approved the zone change. Vice Chairman Gustafson stated how come the owner did not come forward at that point and questioned the rezoning. Vice Chairman Gustafson asked if there was an ownership change from 2005 to now.

Mr. Slachetka stated this pre-dates when he became involved with the Borough. He can only go by what he read in the re-examination of the Master Plan report. He can only speculate that the adjoining district is a residential district and the idea is they were sensitive to the adjoining residential. This is unique situation. The applicant is asking for a use variance but a 'blank' use variance. The Board needs to establish the appropriate perimeters. Those perimeters may be associated to the extent and nature of the existing use. There will be some sort of certification that the site plan approved represents accurately the site today. The Board does have to be careful of putting itself into place of the Governing Body. That is why every application must reconcile the grant of the variance with the continued inclusion of the zone where you have a situation that zone change took place because of a recommendation in the Master Plan re-examination report. The Planning Board and Governing Body have the role in zoning within the community. The Zoning Board can grant variances because of unique circumstances and special consideration but it needs to be careful that it does not step over its bounds in that regard.

Mr. Lavender stated keep in mind that this is a situation may be zoned into inutility. If that is to happen, the applicant can turn around and say that I cannot use it because of what the Borough did and say buy it from me.

Mr. Aithal stated that it is not a non-conforming structure. Since the use was permitted when the use began the use is permitted as well. The only caveat if there is an increase of the intensity of the use by virtue of change in the structure it itself. We are not proposing any change in the structure. That limits how intense the property can be used. If anything changes, adding a dock door, adding or removing parking, any site change, we would have to return to this board because this Board retains jurisdiction. We are looking for permission to say that this facility can be used for distribution. There is a use approval from 2005 with certain perimeter's which will not change. We are not asking to change the conditions that are on the record. We will be back to change the site plan when we find a tenant and signs the lease. They would have to get approval for any changes.

Chairman Leonardis stated that his concern is if there is distribution of things like tractors, snowmobiles, auto parts, chemicals, compressed gases etc. Much more industrial like.

Mrs. Cullen stated that she has the same concern as Chairman Leonardis.

Vice Chairman Gustafson asked in the 2005 approval was there a 'carve out' for warehousing. Mr. Slachetka stated no... there is no carve out. Vice Chairman Gustafson continued... can you describe the very specific terms how Restaurant Depot used the facility? Mr. Aithal stated he has a witness who can address exactly.

Mrs. Campagna asked why Ms. Nichols came before the Board as a witness. Ms. Nichols stated she had signed a lease and planned to aggressively move into the facility until there was a CO issue. Mrs. Campagna continued... How big of a facility is she in. Ms. Nichols replied in a forty thousand (40,000) square foot facility on 21 Distribution Boulevard and are moving to a seventy thousand (70,000) square foot facility on Mill Grove in Edison. Mrs. Campagna continued... How long were you at the forty thousand (40,000) square foot facility? Ms. Nichols replied, approximately five (5) years. Had to get out of the current facility because they won't sign a longer lease because

they are out of space in that facility. Found the South Plainfield facility, but has to get out of the existing facility and couldn't wait to see what would happen to the zoning.

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Mrs. Campagna asked if anything had to be done in the Edison facility. Ms. Nichols stated a CO in Edison is not an issue.

Mrs. Campagna re-iterated when the zone changed from M-3 to OPA-1 it was done by Borough Council. I do not know if we want 'step on their toes'. The Planners made statements that uses should be done by zoning not variance. That is a general statement but finds it difficult to give an approval to something that we don't know who the someone is going to be.

Larry Cohen - Smithfarm Road, Bedford, New York – representative from Restaurant Depot is sworn in. Mr. Aithal questioned Mr. Cohen:

- Chief Financial Officer and one of the founders.
- Is familiar with corporate as well as day to day function.
- Was in front of the Planning Board in 2005. Then again in 2013.
- The operations in 2005 was:
  - Wholesale distributors of food and products to the restaurant industry.
  - Twenty-five (25) to thirty (30) trucks incoming. None outgoing.
  - A lot of car traffic outgoing.
  - Seven (7) days a week operation.

Chairman Leonardis asked Mr. Cohen if he is in the food industry. Mr. Cohen replied yes and paper products. Food and food related products. Chairman Leonardis asked if there were any limitations on the previous resolutions. Mr. Aithal stated he has a copy of the resolution and does not list any limitations. At the time, it was zoned M-3. The zone already addressed those issue as to what could not be done at warehouse distribution facility.

Mr. Aithal continued to question Mr. Cohen:

- Restaurant Depot are storing items at this facility.
- Those items being stored: Some racking, furniture and slow-moving products.
- Leasing a portion of the space and an office.
- Looking to move out completely.
- No food stored at this facility.
- No hazardous chemicals. Only household cleaning supplies: bleach, floor polish.
- No large drums of industrial chemicals or solvents.

Mr. Slachetka asked Mr. Cohen at their maximum activity what are the number of employees per shift and level of truck activity. Mr. Cohen stated he does not know the specifics. Very intensive. The last four (4) years at this location they had grown out of it. There were approximately eighty (80) employees. Probably fifty (50) employees at a maximum shift. Would receive thirty (30) to thirty-five (35) trucks. Receiving was done from 6 am to 5 pm.

Mr. Slachetka asked if there were any issues for capacity of parking to handle the employees. Mr. Cohen stated not for the employees. The issue was with customer pickup parking. Mr. Slachetka continued... Was that occurring on a daily basis or period of time. That was on a daily basis. Little heavier in November / December because of the Holiday's and lighter in July / August. Mr. Slachetka asked what the breakdown between the retail activity and warehouse distribution. Mr. Cohen stated it was not retail, it is wholesale. 100% wholesale. Made no deliveries. Instead of delivering to a restaurant, the restaurant came to them.

Vice Chairman Gustafson asked isn't one of our challenges is that someone goes in and over utilize the spot. Being at the facility, he has seen the challenges of over utilized. Being at the new facility, the operation is night and day.

Mr. Lavender stated he believes that the Board is sympatric to the situation. However, struggling on how to tailor it, narrow enough so it does not get away from the Borough.

Mr. Cohen stated he is very sympathetic with the situation. He was there when the two previous tenants to Ms. Nichols came to the facility.

Mr. Aithal stated applicant would like what he had in 2005. Not asking for the entire one hundred nineteen thousand (119,000) square feet plus which Restaurant Depot utilized. Only asking for seventy-six thousand (76,000) square feet. The intensity of the use can't be what Restaurant Depot had. That's why they moved. They needed bigger site to accommodate their type of business.

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Mr. Cohen stated their business is not common. They have vehicles come to their site.

Mr. Lavender asked how do we get pass the hazardous material.

Chairman Leonardis stated that Mrs. Campagna made a good point. Someone made a very conscious decision to change the zone to OPA-1. We need to understand what our decision means at the time of the sale of the property. If we say yes, we will allow this variance at the time of sale, does it gets advertised as a property with existing tenants. Do you use it as is with new ownership? Do all those uses have to be terminated? Is an OPA-1 use to be brought in at that point in time?

Mr. Aithal stated one of the concerns since the zone change, there is a mechanism in place that a pre-existing non-conforming use can come back before a Zoning Board. We have a pre-existing use that was permitted. Time has passed and now not permitted but that use has continued and so continues today.

Chairman Leonardis stated it is not a good thing that we have potential tenants leaving town. We may need a few weeks to go through this.

Mr. Aithal stated that time is critical. Getting into a point in the year that it is going to be more difficult to fill the space. Would ask if the Board would consider: To limit the hazardous material; To limit the intensity of the use; To limit counterspace for public wholesale or resale use; in order to market this as a warehouse distribution facility. Will return for the site plan.

Chairman Leonardis stated it is not the quantity but the concentration of a chemical. Do not want potential fires or issues.

Chairman Leonardis asked what type of businesses was the other two (2) potential tenants. Mr. Aithal stated one was a trucking business and the other was a pool supply business.

Mr. Slachetka stated a truck terminal would not be permitted regardless, even in an M-3.

Vice Chairman Gustafson asked if any of those two (2) protentional tenants have a retail component. Mr. Aithal stated no. Vice Chairman Gustafson continued... if warehousing with some sort of counter aspect for wholesale or retail sales, then that is another issue. If warehousing becomes fifty-two (52) tractor trailers a day that are in and out, you just intensified every aspect of an OPA-1 zone by the use of the trucks.

Mr. Aithal stated one of the things the Board needs to be aware of is that this is not a cross dock facility. Trucks are not coming in, repalletized items and going out the other side. When a tenant does want to move in, we will have to return to the Board for any changes in the structure. Putting the limits on right now beyond what was previously discussed will enable us to market it. We are unable to do so at this point. Cannot mark it as an office. That is the only use permitted in that zone.

Chairman Leonardis stated if a supply company came before the Board such as a pool distributor, that probably is a business that would make sense. Boxes of goods going to Walmart, makes sense. The question is when we get into things like high concentration of chemicals, distribution of car parts, fenders, tires, rims etc. things that are much more industrialized then office like.

David Teitelbaum – 28 Greenwich Road, Old Tappan, New Jersey – owner of the facility is sworn in. Mr. Aithal asked Mr. Teitelbaum if he would want a business that would have concentrated chemicals. Does not want anything toxic. If anything went bad with the tenant, he does not to be responsible to dispose the chemicals. Would accept as a conditional approval, no toxic chemicals or concentrated chemicals. Quantity and concentration matters. Does not want any tenant that can cause problems like spillage, fire, people getting hurt. Not a cross dock facility. You cannot unload a truck and reload another truck. You unload a truck, put the items on a rack and pull when needed. Does not anticipate any higher intensity then Restaurant Depot. Most facilities unload from truck onto another truck. Restaurant Depot would unload from trucks and then it would go into cars and vans. They created all the traffic.

Conflict between the trucks and cars. Trucks would park remotely then get called in when docks became vacant. Restaurant Depot outgrew the space as soon as they moved in but needed the space to take the pressure off their other location in Kenilworth. They did not realize how profitable and busy they would become. Does not envision any other use coming in as intense as Restaurant Depot.



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Mr. Aithal stated that the Board is grappling with the concept of allowing any one coming in not looking to change the building but may not be a desirable corporate tenant for the Municipality. One of the items mentioned was the intensity of Restaurant Depot. Mr. Aithal asked Mr. Teitelbaum if he will accept a conditional approval that he would not have a facility that would have a similar intensity to the Restaurant Depot? Mr. Teitelbaum agreed.

Mr. Teitelbaum stated that most of the tenants that have come to him handle common freight. Only a few business tenants have the ability or license to handle toxic dangerous materials.

Mr. Lavender re-iterated common freight nothing that requires special permits.

Mr. Slachetka stated that the Board Professionals, Engineer, Planner and Attorney might need some time to evaluate this and come up with some appropriate frame work to the Board. This is not a seat of the pants decision that the Board needs to make. He understands the concerns about the marketing.

Mr. Teitelbaum asked how does the Board limit any warehouse in a M-3 zone as to what they can or cannot store. Mr. Slachetka stated that the Planning Board would review the application to make sure that the facility is the appropriate size, there is sufficient parking and circulation for the nature of that use.

Mr. Aithal stated how about no concentrated chemicals, no hazardous materials; If it needs a special license, it cannot be general freight.

Mr. Teitelbaum stated if he has a tenant that has those products, they will have to come to the Board and ask for permission. The tenant would have to understand that is the condition of his lease.

Mr. Slachetka asked what would be the issue of concern if we come back at the next board meeting with the specific recommendation to the board. Mr. Aithal stated we would lose another month.

Chairman Leonardis stated there are two separate businesses running in the facility. What is going to happen when another company comes in... will there be three (3) separate businesses. Mr. Teitelbaum stated there are only two separate units. There is a thirty thousand (30,000) square foot unit in the rear and a seventy-six thousand (76,000) square foot unit in the front. Chairman Leonardis asked if Restaurant Depot is moving out? Mr. Teitelbaum responded yes, they are moving out. Chairman Leonardis asked there will be only trucking company and who even the new business is. Mr. Teitelbaum answered yes, only two (2) entities. That is all the building is designed for.

Mr. Slachetka asked Mr. Teitelbaum what section is the thirty thousand (30,000) square foot area in the building. Mr. Teitelbaum stated that is the rear. Further away from the entrance.... Around the back. Jimmy's Trucking. They were there before Restaurant Depot. They were contemplating using the whole building and taking over the Restaurant Depot lease but they lost a major customer so they were unable to do so.

Chairman Leonardis stated his issue is how to establish perimeters.

Mrs. Campagna stated unfortunately the ordinance change. That is not in the Boards power to change it back. That is the price of doing business. It is unfortunate that we have people come before this board and its May 15 and need it by May 30<sup>th</sup> because the contract will be null and void. That is not this Boards problem. I am sympathetic. But you cannot ask the Board to approve something sight unseen and then complain something is not right. We have to see what it is, who it is, and then we can say you can have this and that. Unfortunately, you lost three (3) tenants. I cannot do anything tonight.

Mr. Aithal asked if a resolution can be drafted prior to the next Board meeting with the perimeters.

Mr. Slachetka stated along with the conversation of potentially drafting a resolution is that we establish the perimeters and the Board has the power to mandate the grant of the variance on site plan application. The Board would be in the right to in contingent upon granting any use variance to require that it does not get in factuated until the return with a specific site plan in which the board can address things like circulation and if there are any problems

or issues the board might have the level of control that it is seeking. I think it has to be in two parts. If the Board is inclined to grant a use variance without a specific user it: A) there needs to be some type of standards and requirements and B) that the use variance is a condition upon the applicant must return to get a site plan approval.

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Mr. Aithal stated if we have to come back for a site plan approval then give us the use variance. We cannot get approval to put in a tenant without a site plan.

Allison Kaufman – 823 West Park Avenue, Ocean Township, New Jersey – Planner for the applicant. Mr. Aithal questioned Ms. Kaufman:

- Positive Criteria
  - There is a particular suitability of this warehouse facility. It is a warehouse facility.
  - Site rezoned to OPA-1.
  - Not a single site use permitted in this zone that is appropriate for this building at this site as it currently exists.
  - Permitted uses in this zone: business, professional and service offices.
  - It would require substantial alterations to the structure and site to accommodate the uses.
  - Funeral home. Parks and playgrounds which is not desirable to have between an interstate and rail line.
  - Schools, commercial public or private swimming pools, government and public buildings and clinics None of these uses could readily occupy the existing structure which is a warehouse.
  - Site and structure has the characteristics of a warehouse distribution facility.
  - Has prior approval for use as such.
  - Was to use OPA-1 zone as a placeholder to have a temporary zone for this property and area pending a study of need of an area of development.
  - In the eleven (11) years of the Master Plan re-examination was adopted, the Council has not found this area in need of redevelopment.
- Negative Criteria
  - Use essentially the same as the prior use.
  - No substantial detriment to the variance in terms of the Master Plan and Zoning Ordinance because the lot has the features and characteristics of a warehouse and distribution center.
  - Has been used as such for several years.
  - Variance will not impede the future development of this site with a permitted use as such time a redevelopment plan of this area is adopted.
  - Enhanced Burden of proof under Medici.
- This is a unique situation where there is a use variance that is truly a hardship situation where there is a building that cannot be used for anything else. Yes, we do meet that standard of proof.
- No bulk variances.

Chairman Leonardis stated warehouse spaces are wide open spaces with columns and beams. Would it be possible, to take a warehouse and retrofitted to be an office space? Ms. Kaufman replied, no. She has never seen a warehouse converted into an office building but has seen them converted for other uses primarily recreation. Places that were heavy industrial facilities that have been turned into stores. She has seen the space converted into recreation space like gymnastics. Chairman Leonardis continued... Didn't Red Bank have a large warehouse that were converted to offices? Mr. Bucco stated yes. Chairman Leonardis asked if there would be an opportunity to go up and make it a two-story office building? Ms. Kaufman stated she is unable to answer. Mr. Bucco stated that a structural engineer would look at it. Chairman Leonardis stated he has rented warehouse space and housed up to two hundred (200) engineers and construction managers. Mr. Bucco stated there are facilities in Eatontown that took warehouse and turned them into office place.

Ms. Kaufman stated the other consideration is parking. She believes it will be difficult. There are one hundred thirty-six (136) parking spaces. Not sure if the required amount of parking spaces for this size of a facility can accommodate this site. Adding another floor will make that more difficult.

Chairman Leonardis stated to Ms. Kaufman that she kept referencing a re-development plan. How do you know that our Governing Body put this in as a placeholder for a redevelopment plan? She was relying on Mr. Slachetka's Master Plan re-examination report. Mr. Slachetka stated that there is a reference to that in the report. Ms. Kaufman stated it is not an uncommon. Because they did not act on the re-development, does not make the zone irrelevant.

Chairman Leonardis asked for a copy of the Master Plan re-examination report. He needs to understand what the thoughts were. Did they consider what the impact would be.

BOROUGH OF SOUTH PLAINFIELD  
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Mrs. Campagna asked Ms. Kaufman if she seen a use variance granted without a specific user? Ms. Kaufman stated yes. There was a building that was granted a use variance for a surveying company. When that company left, there were no market for a surveying company. Therefore, they came up with a list of acceptable specific type of office user. That allowed the owner to market the property and give the town some control. Mrs. Campagna stated isn't that what the zones are with a listing of what can go there. Ms. Kaufman stated they picked a compatible zone.

Mr. Teitelbaum stated that when a tenant comes to him they want to move in within three (3) months.

Mrs. Cullen asked Mr. Slachetka when there is a change of zone does the owner have the right to come forth and say this is a detriment to me. Mr. Slachetka stated yes, the owner has that right.

Mr. Teitelbaum stated he was not notified at that time and had conforming uses at that time.

Mr. Aithal stated that is part of the issue. At the time, when the use was going on, there was no need to come forth. We are now in a unique position of trying to put someone in the building with a use that was previously permitted but cannot do so. He strongly suggested that a resolution be drafted for the next meeting with the perimeters. He does understand that the Chairman would like to understand the reasoning behind the change in the Master Plan re-examination report. Essentially, this is zoning us out of inutility. We cannot use the building with a large expense.

Mr. Slachetka asked Ms. Kaufman if she thought that the zoning change had anything to do with the proximity of the residential area? Ms. Kaufman stated she did not give it any thought because this is a warehouse.

Mr. Slachetka continued... there were no other variances. Ms. Kaufman stated, not at this time. There may be an existing non-conforming height situation but not aware of any at this time.

The hearing has been adjourned to July 18, 2017.

**INFORMAL HEARINGS:** None

**OLD BUSINESS:** None

**NEW BUSINESS:** None

**CORRESPONDANCE:** None

**EXECUTIVE SESSION:** None

**ADJOURNMENT:** 11:40 PM

Respectfully Submitted,  
Joanne Broderick  
Recording Secretary