

BOROUGH OF SOUTH PLAINFIELD
ZONING BOARD OF ADJUSTMENT MINUTES
January 15, 2019

Chairman Leonardis opened the meeting at 7:09 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
Cindy Eichler
Frank Lemos
April Wasnick, 1st Alternate

Absent:

Darlene Cullen
Joseph Scrudato, 2nd Alternate

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

MINUTES None.

RESOLUTIONS: None

HEARING:

A. Case # 7-16 -- John & Eugene Pesaniello (Gene's Auto Wreckers)
Block 390: Lot 18 & 28: M-3 Zone
459 & 499 Hollywood Avenue

The owners are requesting a use variance for an outdoor storage yard.

Mrs. Eichler recused herself.

James F. Clarkin, III – Clarkin & Vignuolo, PC, 86 Washington Avenue, Milltown, New Jersey – attorney for applicant addressed the Board. This application has been ongoing since 2015. Original file was a D2 use variance and a site plan approval. The D2 Use Variance was requested because the junkyard is being operated on less land than it was originally. The bulk of the land was sold to McGrath. The Board approved their application. The Applicants are two (2) brothers... 91 and 90 years old. They are requesting to be able to continue their very minimum business activity without any improvement to the site. After all these years, finally able to present site plan drawings. The applicants do not want to make the improvements on the site plan. Money to make the improvements will be wasted because the brothers will not be on this site for much longer... 'no one lives forever'. Ultimately, the property will revert to a conforming use. Would like to have Mr. John Pesaniello explain how the property is used.

John Pesaniello – 320 Pitt Street, South Plainfield, New Jersey – applicant, is sworn in. Mr. Clarkin questioned Mr. Pesaniello:

- John Pesaniello is 90 years old.
- Gene Pesaniello is 91... about to turn 92.
- Mr. J. Pesaniello infrequently visits site.

BOROUGH OF SOUTH PLAINFIELD
ZONING BOARD OF ADJUSTMENT MINUTES
January 15, 2019

- Maybe once a week for approximately three (3) hours.
- Sometimes will not visit the site for over a week.
- Weather and seasons are factors of not visiting.
- Do not take in new equipment or materials.
- Has not had any business transaction for almost a year.
- People are not coming in or out.

Mr. Clarkin addressed the Board. Suggests to prove D2 Use Variance and waive site plan. Applicants agree to record a deed that the use variance does not run with the land. When the second brother no longer operates at the property, the property is to be returned to a conforming use. Continuation of the 'statuesque' has no negative impacts to the adjoining properties. McGrath, businesses on Hollywood or anyone from Zwolak Court is currently present for this application. Not being detrimental to the public good. No impairment to the Zoning Ordinance - an existing situation.

Mr. Lemos asked if there have been any complaints against the properties in recent years. Mr. J. Pesaniello stated that when there is lots of rain, he has stone delivered and spreads it out to dissipate water. Many trucks do u-turns on his property. Have not received any complaints.

Chairman Leonardis stated he can accept the proposal but would like to have an 'end date'. Possible six (6) months or a year after the brothers no longer use the property and have the property cleaned up. Mr. Clarkin agreed that the property would have to be cleaned up. The Board agreed to nine (9) months after the brothers no longer use the site.

Mr. Clarkin stated that a D2 variance is justifiable. The property is particularly suitable. Property is already laid out for this type of use. The negative criteria are no increase in intensity. Instead of the business growing, the business is declining significantly. Reason in need of the D2 variance is the additional land was sold to McGrath and operating on less land area. Have sold off a tremendous amount of goods on the property.

Mr. Lavender asked what even would trigger the start of the nine (9) months. Mr. Clarkin stated that when neither brother has operated at the site for a particular period. Mr. Lavender stated that they would be the only ones that would know if they have been to the site. Mr. Clarkin suggested that he issues quarterly reports to the Board if the brothers are still running the site. There may be a point that the brothers may not be able to physically get to the site.

Vice Chairman Gustafson asked who owns the property. Mr. Clarkin stated individually. Mr. Gustafson had a concern that the brothers may change the ownership to an LLC. Mr. Clarkin stated he would word the deed in such a way that that would be in violation of the agreement.

Mrs. Wasnick asked what would happen if the property got sold to a family member. Mr. Lavender stated the trigger would be if the brothers sold the property or pass on. Nine (9) months from that date, the property would have to be cleaned up. Chairman Leonardis explained that this agreement would only be good until ownership is transferred. Then it would have to return to a conforming use.

Vice Chairman Gustafson asked if their Estate would start the nine (9) months. Mr. Lavender stated that the death of the last brother would start the nine (9) months. Mr. Clarkin agreed. Mr. Lavender stated that if the brothers cannot get to the site physically or pass on. Mr. Clarkin will inform the Board each quarter on the status.

Mr. Clarkin stated that once Mr. Lavender is comfortable with the wording, Mr. Clarkin will present it to the Board.

Mr. Lavender asked if Mr. Clarkin and the Pesaniello brothers would agree to a cap. That no more than five (5) years or when the last brother is unable to operated the site or passes on. Mr. J. Pesaniello stated he does not believe he and his brother will last five (5) years.

Mr. J. Pesaniello stated they have been on this site for sixty (60) years.

Mr. Clarkin stated that a five (5) year cap is acceptable. Chairman Leonardis added or if the second brother passes.

Mrs. Campagna stated that this is the first time that a variance does not run with the land. Asked Mr. Clarkin how unusual is this. Mr. Clarkin stated it has been done. Recollects that this Board had done so when he was the Board

BOROUGH OF SOUTH PLAINFIELD
ZONING BOARD OF ADJUSTMENT MINUTES
January 15, 2019

Attorney. It is unusual. Mr. Lavender stated there was another application before the Board the Mr. Clarkin represented that is attached to the applicant not the land.

Mr. Clarkin stated that he is requesting a D2 Use Variance waiving of site plan improvements subject to the execution of a mutually agreeable deed of restriction that the Board will approve the wording that upon the passing of the second brother or will no longer utilizing with a cap of five (5) years. Period of nine (9) months for cleanup of the property from that point. An application would be made for a conforming use.

Chairman Leonardis stated that this is a unique situation. This is a way to keep the brothers to continue to use the property over the last sixty (60) years. Will give the Board the limitation and administrative needs.

Chairman Leonardis calls for a motion of *approval*. Mr. Lemos made motion, seconded by Mr. Bonanno. Those in favor: Mr. Bonanno; Mrs. Campagna; Mr. Lemos; Mrs. Wasnick; Vice Chairman Gustafson and Chairman Leonardis. Those oppose: None

**B. Case #28-18 -- Fischer Group LLC
Block 401: Lots 3.01 & 4: M-3 & R-10 Zone
2225 Hamilton Boulevard**

The applicant is requesting a *Use Variance, Preliminary and Final Site Plan and Bulk Variances* to construct a garage/shop and office building. Variances being requested: Front Yard Setback (House) – Required 50 feet – Existing 3.2 feet – Variance 46.8 feet --- Front Yard Setback (Office) – Required 50 feet – Requesting 6.2 feet – Variance 43.8 feet --- Side Yard Setback (House) – Required 30 feet – Existing 2.5 feet – Variance 27.5 --- Side Yard Setback (Garage) – Required 30 feet – Requesting 10 feet – Variance 20 feet. Bifurcated.

Chairman Leonardis read an email from James F. Clarkin, III to Joanne, Board Secretary...

'Please carry this application to the Board meeting on February 5, 2019 without further notice or publication Applicant will be further revising its plans. Thank you. James F. Clarkin, III, Esq'

Chairman Leonardis announced to the Audience Members that this application will be carried to February 5, 2019.

**C. Case #32-18 -- JSM Holdings at South Plainfield LLC
Block 535: Lot 9.01: M-1 & OPA-1 Zone
2901 Hamilton Boulevard**

The applicant is requesting a *Preliminary and Final Site Plan, Use and Bulk Variances* to construct a 10,080 square foot retail building with drive-thru, an 80,222 square foot office with workshops and contractor's storage yard. Continued from November 11, 2018.

Mr. Wolfson, attorney for Applicant, addressed the Board. Is aware that the Board had retained Mr. Jahr as Traffic Engineer to verify and review Mr. Pehnke's Traffic Report. Additional time is needed. Agreed to an adjournment and consent to an extension. Believes the next meeting in February 5, 2019. It is confirmed that the next meeting is February 5, 2019 and the hearing will carry.

Chairman Leonardis stated that would like the October 2018 Traffic Study to be reviewed by the Board Engineer. Mr. Bucco stated he only reviewed the 2014 Traffic Report.

Mr. Aulenbach asked how many copies of the most current Traffic Study. It was determined six (6) copies of the study to be delivered to the Board Secretary. Mr. Aulenbach stated it will be delivered tomorrow.

Mr. Lavender confirmed with Mr. Bucco that Mr. Jahr will be conducting his own study on behalf of the Board and will be present at the next hearing.

BOROUGH OF SOUTH PLAINFIELD
ZONING BOARD OF ADJUSTMENT MINUTES
January 15, 2019

Mr. Wolfson requested that the Borough to contact the County regarding the left hand turn. Any improvements requested by the County will be no cost to the Borough.

Chairman Leonardis asked where would the light be located. Mr. Wolfson stated they believe they do not need one. However, if the County believes they do, will do so. Received previous County approval without a light. Requested that the Borough contact the County regarding the light. Mr. Bucco stated that he will have Mr. Jahr contact Mr. Lavender and Chairman Leonardis to coordinate.

Mr. Lemos stated that it is not just the approval, would like to see a firm date. Had been told by the County that bridges were going to be repaired or redone and has not happened. Mr. Wolfson stated the difference in this case is if the County states that the light is needed, it is a conditional of approval. The Applicant cannot build without it.

Chairman Leonardis announced to the Audience members that the Applicant will be returning on February 5, 2019.

INFORMAL HEARINGS: None

OLD BUSINESS: None

NEW BUSINESS: None

CORRESPONDANCE: None

EXECUTIVE SESSION: None

ADJOURNMENT: 6:45 PM

Respectfully Submitted,
Joanne Broderick
Recording Secretary