

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

Chairman 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, The Courier News and The Star Ledger 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
Maria Campagna
Cindy Eichler
April Wasnick, 1st Alternate
Joseph Scudato, 2nd Alternate

Absent:

Ken Bonanno
Darlene Cullen
Frank Lemos

Also attending, Larry Lavender, Esq.; Stanley Slachetka, PP, AICP

MINUTES: NONE

RESOLUTIONS:

- A. Case #15-18 -- Starlight Properties, LLC
Block 528.01: Lot 45.01: M-2 Zone
50 Cragwood Avenue**

Chairman Leonardis calls for a motion of **approval** of the above mentioned revised Resolution. Mrs. Eichler made motion, seconded by Mr. Scudato. Those in favor: Mrs. Campagna; Mrs. Eichler; Mrs. Wasnick; Mr. Scudato; Vice Chairman Gustafson and Chairman Leonardis. Those oppose: None

HEARING:

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

The applicant is requesting a *preliminary* and *final site plan approval* that requires a *use and bulk variances*.

Carl N. Tripician, Esq. - 1230 Shore Road, Linwood, New Jersey - attorney for the Applicant. Addressed the Board Members. Before the Board for a remand consistent with the Consent Order that was issued by the Superior Court of Middlesex County Action entitled Robert Cusick vs Borough of South Plainfield Zoning Board of Adjustment. The Consent Order was dated September 4, 2019. Requires a remand to the Board to confirm a settlement... 'a Whispering Hills Hearing.' Requested that all prior testimonies and submissions previously presented as part of this hearing. No recall of witnesses. Mr. Lavender agreed. Mr. Tripician continued.... Outlined all conditions. Presented Exhibit A1 - List of the Conditions compiled by the Applicant. Mr. Tripician reviewed the list of seventeen (17) items with the Board Members and Board Professionals.

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Mr. Lavender presented Exhibit B1 - List of Conditions compiled by the Board.

Gino Leonardis stated that the list that was read is not to override any testimony or agreements that were made throughout the hearings. The list is a summary. Mr. Tripician stated that the items on his list were taken from the Minutes of the previous hearings.

Mr. Tripician reviewed Exhibit B1.

Terry Garry, Sommers Point, New Jersey - questioned the twelve foot (12') driveway. Asked to stipulate as per Engineers drawings. Mr. Lavender and Chairman Leonardis agreed. Mr. Cusick agreed.

Vice Chairman Gustafson stated that there is a discrepancy between the lists. The Board's list stated that New Market Avenue egress would be closed. Vice Chairman Gustafson stated that is not a challengeable condition. Ms. Garry stated would like to grass the portion between curb cut and sidewalk. Add shrubs to block the entrance. Does not want to eliminate the curb cut, but understands the need to eliminate the possibility of it being used as a driveway. Believes the grass and shrubs will do so.

Ms. Garry questioned the removal of the stockade fence. Would like to power wash and stain. Vice Chairman Gustafson asked in the vicinity of the stockade fence, the white pine tree. Mr. Tripician stated the pine tree will be removed. Vice Chairman Gustafson questioned the 'play area'. Ms. Garry stated that the play area gave way for the parking spaces. Vice Chairman Gustafson stated there is no off-street parking in front of the building on Highland Avenue. Mr. Cusick disagreed. Vice Chairman Gustafson stated there is no parking seventy-five feet (75') from the Stop Sign. Mr. Cusick replied his property goes back one hundred twenty feet (120'). Vice Chairman Gustafson continued... there is a curb cut for the garage and driveway entrance. Will have room for one (1) car which does not eliminate the parking issue. Vice Chairman Gustafson reviewed the plans.

Ms. Garry stated that the stockade fence will be moved to start from the edge of the garage. Vice Chairman Gustafson confirmed from the back corner of the garage.

Mr. Tripician asked the Board if there are any items not agreed on. Mr. Lavender stated that the Board Secretary advised the basement would be storage only. Mr. Cusick agreed.

Vice Chairman Gustafson stated no outdoor storage including the front porch... bikes, toys, lawn equipment etc.

Mr. Scudato asked if the garage is for storage and no cars. Mr. Cusick stated he parks his car in the garage when at the site.

Mr. Lavender questioned Mr. Tripician regarding the curb cut on New Market Avenue. Mr. Tripician stated will have no curb cut... will have regular curb.

Mr. Lavender asked the Board if they would like a time line. Chairman Leonardis agreed and asked Mr. Tripician what is the Applicant's time line. Mr. Cusick stated once the appeal process and resolution is complete, would like to have it all completed within six (6) months from the appeal process date. Mr. Tripician stated he had instructed Mr. Cusick to have meetings with the Environmental Commission. It was determined by July 1, 2020 weather permitting.

Vice Chairman Gustafson asked how does the legal portion of the site plan work with the inside portion.... Using the third apartment without the parking in place. Chairman Leonardis reiterated how will the inside work tie-in to the outside work. Mr. Cusick stated it will be done. Mr. Lavender stated the CO has nothing to do with the time line. Resolution would have to be complied to by July 1, 2020.

Chairman Leonardis stated there are three (3) parts to this... 1 the Certificate of Occupancy.... 2 structural upgrades.... 3 esthetics and cosmetics. Mr. Tripician stated understands that compliance is through Municipal Code... Zoning Official, Code Enforcement. Chairman Leonardis suggested that parking, curbing, sidewalks... anything connected to people living in the units be completed as part of the Certificate of Occupancy. Mr. Tripician stated the Board does not want a resident in the unit without a parking spot.

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Chairman Leonardis stated landscaping can be completed seasonal. Mr. Lavender asked Chairman Leonardis if he would like a time date for all. Chairman Leonardis stated yes.... July 1, 2020. Mr. Cusick agreed with weather permitted. Mr. Tripician stated if an extension is needed due to weather or other acts of God, is assuming the Board would grant an extension by request.

Mr. Lavender explained to the Board that a 'yes', the Applicant will complete items that were testified and agreed to. A 'no' vote would begin litigation. If proceed with litigation... the Applicant wins or the Board wins. If the Applicant wins gets to do what he would like to with the property. If the Board wins, the Board can enforce items discussed. If proceeds to appeal, nothing may be done to the property.

Mr. Tripician reviewed the Consent Order and read... 'that upon the issuance of the resolution approving the settlement plan, discussed and agreed to, and explanation of any appeal period related to that the prior decisions by the Board denying the use application, bulk variance and minor site plan approval shall be vacated. Upon the issuance of the resolution on the settlement plan that the complaint and litigation with prejudice.' When it is done, it is done.

Chairman Leonardis asked the Public if there were any questions or concerns. No questions or concerns.

Chairman Leonardis announced that there six (6) voting members present.

Mr. Tripician stated that has offered the positive criteria for the use variance as well as the variance can be granted without the detriment to the public good. Would not impair the zone plan or the zoning ordinance. Settlement plan has been agreed to... matching A1 to B1. Have incorporated all the testimony through Whispering Hills Hearing. Have complied with the Consent Order from Judge Hurley for litigation. A vote is needed for the Settlement Plan and end the litigation.

Chairman Leonardis stated that the Board Attorney advised the Board with their options. If the improvements are made that were discussed in a timely fashion, will add esthetics to the house, beautify the area and the use needs to the Applicant.

Chairman Leonardis calls for a motion of **approval** of the Application. Mrs. Campagna made motion with all conditions discussed including previous hearings, seconded by Mrs. Eichler. Those in favor: Mrs. Campagna; Mrs. Eichler; Mrs. Wasnick; Mr. Scrudato; Vice Chairman Gustafson and Chairman Leonardis. Those oppose: None

INFORMAL HEARINGS: None

OLD BUSINESS: None

NEW BUSINESS: None

CORRESPONDANCE: None

EXECUTIVE SESSION: None

ADJOURNMENT: 7:45 PM

Respectfully Submitted,
Joanne Broderick
Recording Secretary