

BOROUGH OF SOUTH PLAINFIELD  
ZONING BOARD OF ADJUSTMENT MINUTES  
January 17, 2017

**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 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  
Darlene Cullen, 2<sup>nd</sup> Alternate  
Cindy Eichler  
Robert Hughes  
Frank Lemos, 1<sup>st</sup> Alternate  
David Miglis**

**Absent:**

**Maria Campagna**

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

**MINUTES:** December 20, 2016 Meeting.

Mrs. Eichler made motion, seconded by Mr. Bonanno to accept the above stated Meeting Minutes. Those in Favor: Mr. Bonanno; Mrs. Eichler; Mr. Lemos; Vice Chairman Gustafson and Chairman Leonardis. Those oppose: None.

**RESOLUTIONS:** (2)

- A. Case #15-16 -- Auto Bot, LLC  
Block 472: Lot 2: M-3 Zone  
4307 New Brunswick Avenue**

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

- B. Case #19-16 -- Vanessa Londono  
Block 147: Lot 13.01: R-7.5 Zone  
1554 Dumont Avenue**

Mr. Lemos made motion, seconded by Mr. Bonanno to accept the above stated Resolution. Those in Favor: Mr. Bonanno; Mrs. Eichler; Mr. Lemos; Vice Chairman Gustafson and Chairman Leonardis. Those oppose: None

**HEARING:** (1 Residential & 1 Commercial)

- A. Case # 6-16 -- Peak Equipment, LLC  
Block 284: Lots 19 & 24: M-3 Zone  
512 New Market Avenue & Dover Place**

BOROUGH OF SOUTH PLAINFIELD  
ZONING BOARD OF ADJUSTMENT MINUTES  
January 17, 2017

The applicant is requesting Preliminary and Final Site Plan with Bulk and Use Variances – Bifurcated.  
Use Variance approved December 20, 2016. Returning for Preliminary and Final Site Plan

Chairman Leonardis reads a letter from Walter K. Abrams, Esq. requesting the hearing to be adjourned and carried to February 7, 2017. The applicant grants time limitation imposed by the MLUL. The Board grants the request and all notices will carry.

**B. Case #4-16 -- Robert Cusick**  
**Block 311: Lot 9: R-10 Zone**  
**1055 New Market Avenue**

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

Paul Sica, Esq., attorney for the applicant addresses the Board. Robert Cusick is the owner of the property located at 1055 New Market Avenue. The property has a unique history which pre-dates the current Master Plan. Historically, the property was owned by The Scalera Family. The first floor was used as a general store – commercial retail. The second floor has two (2) apartments. With some research, assessment records from 1977 were found indicating The Scalera Family used the building as a three (3) family house. It is noted by the Assessor and by a Mrs. V. Scalera. At some point in time, the operation of the commercial retail was ceased and the property was sold. The entire first floor of the building cannot be used unless the former use is re-instated or Mr. Cusick may ask the Board to use the first floor as his personal residence.

Robert E. Cusick - 12 Mayberry Drive, Waretown, New Jersey – is sworn in. Chairman Leonardis questions Mr. Cusick as to when the property was purchased and what his understanding of the property when he purchased it. Mr. Cusick purchased the property in June 2014. When purchased, he was given plans for a four (4) family house from the previous owner, Michael Black drawn by Bob Longo, Architect. However, that is not what he would like to do. He would like to use the entire first floor as one (1) apartment.

Chairman Leonardis states that Mr. Sica made a comment that the first floor cannot be used. Why? Per Mr. Sica, it is a vacant store. According to the current zoning requirements, two (2) families would be evicted to construct a single-family home. Chairman Leonardis re-iterates that Mr. Sica stated previously that the building has two (2) apartments on the second floor and the first floor was a store. Why can't the first floor continue to be a store? Mr. Sica stated it ceased being a store. Therefore, they would have to request a confirmation of a non-confirming use and face issues with abandonment. Currently the property is in a R-10 zone.

Chairman Leonardis asks when was the first floor no longer used as a business? Mr. Cusick states he does not know. Mr. Cusick continues that the current Borough Fire Chief Tom Scalera's family owned it and he lived in the house when it was a three (3) family unit.

Mr. Lavender asks since Mr. Cusick's purchase, has the first floor ever been used as a store or apartment? Mr. Cusick states no. It's been vacant. Mr. Lavender asks prior to his ownership, does he know how long the first floor has been vacant. Mr. Cusick states possibly in the 50's. He believes the store was vacated approximately 1955. But according to the assessing records, in 1977 there were three (3) families living in the building. To Mr. Cusick's knowledge, the third family lived on the first floor.

Mrs. Cullen asks Mr. Cusick at the time of purchase, what did he think he was buying? Mr. Cusick states he bought a two (2) family with hopes of making the first floor into another apartment - creating a three (3) family. He has no intention of making the first floor a store. However, Mr. Black gave drawn up plans to Mr. Cusick for a four (4) family. The plans were never brought to the Board at any time. Mrs. Cullen continues... was the sale a listed sale or private sale? Mr. Cusick states it was a listed sale. Mrs. Cullen continues, was it listed as a two (2) family or a three (3) family? Mr. Cusick states a two (2) family with an abandoned store. He purchased it through Jack Pedersen.

Chairman Leonardis continues to question Mr. Cusick:

- Describe what is on the property besides the building. A three (3) car garage which he stores tools. His children and himself work on their personal cars in the garage.

BOROUGH OF SOUTH PLAINFIELD  
ZONING BOARD OF ADJUSTMENT MINUTES

January 17, 2017

- Where do the two (2) families park their vehicles? One (1) family has one (1) vehicle and the second family has two (2) vehicles. They park either in the driveway or in the street. When there is a snowstorm they remove their vehicles from the street and park in the driveway.
- What is the size in square feet of the first floor? Approximately eighteen hundred (1,800) square feet. Same footprint as upstairs.

Vice Chairman Gustafson states the survey they have depicts one (1) driveway which appears to be eleven feet (11'). Where is the driveways for potential parking? Mr. Cusick states that to the left of the three (3) car garage there is parking space. Also, two (2) parking spaces off of New Market Avenue. A cement apron is the recommendation of Board Engineer. The existing width of the stone driveway is twenty feet (20').

Chairman Leonardis states currently you have parking for three (3) and you have a three (3) car garage. The garage is not being used for parking but for storage.

Mrs. Cullen asks if there is room for a car to park in front of the garage. Mr. Cusick states no. The sidewalk would get blocked. On the street, itself in front of his property, there is room to park four (4) vehicles on Highland Avenue.

Mr. Miglis asks where the stone driveway is accessed... through New Market Avenue or between the garage and house. Through New Market Avenue. There is a curb cut but no apron. Mr. Bucco states he has safety concerns and advised Mr. Cusick that a concrete apron has to be built. Mr. Miglis reiterates, there is a depressed curb, stone between the curb and sidewalk which will be filled in with concrete. Mr. Bucco states there is a stone parking area and he recommends that it gets graded and rolled.

Mr. Cusick describes the area. There is a paved area in front of the garage and a depressed curb that goes approximately forty feet (40'). There is a concrete walkway. There is a first floor and basement entrance off the patio area. There is a first floor entrance at the front of the house facing New Market Avenue. The side entrance facing Highland Avenue, you can either go upstairs or continue forward to the first-floor entrance. Therefore, the first floor has three (3) entrances.

Mr. Lemos asks if Mr. Cusick was denied a zoning permit. Mr. Cusick states that was the initial application. He applied for a zoning permit, got denied and now is in front of the Board. Mr. Sica states the drawings of the first floor were submitted to the building department and were rejected.

Mr. Lemos continues, the area is prone to flooding. Usually the first-floor floods. Mr. Cusick states that he has topographical maps. The first floor is up several courses of concrete. The FEMA map shows the first floor to be two (2) to three (3) feet above the sixty-five (65) feet flood plan on the map. There is a basement. Mr. Cusick states that it does not flood. Has a sump pump and has never had a flood issue. Mr. Black has told Mr. Cusick that it never flooded. Mr. Cusick did not ask Chief Scalera if the basement flooded. The house is almost one hundred (100) years old.

Chairman Leonardis states there is approximately four thousand (4,000) square feet of livable space. Most of the homes in town are fifteen to eighteen hundred (1,500 – 1,800) square feet on a 75X100 or 100X100 lot. He would like an explanation on how this lot can support three (3) families. The first floor can easily support three (3) to four (4) bedrooms with two (2) baths. The size of the first floor can potentially bring in a family of four (4) or five (5). The same for the upstairs. He would like to hear more about how this building, property and location can support this.

Mr. Cusick states that upstairs are two (2) two-bedroom apartments. That will not change. Would like to give up the commercial space downstairs and convert it into a three (3) bedroom apartment. It is not being used now at all. Mr. Cusick would like to live there.

Chairman Leonardis asks Mr. Cusick if approved, is he willing to return the first floor to its current state once he is done living there. He will probably not live there forever but would not like to put a restriction on it. He is not looking to flip the house.

Chairman Leonardis wants to know what the hardship that Mr. Cusick would like the Board to look at. Mr. Cusick states the hardship is he is paying taxes on the first floor that is not being utilized. He has the opportunity to use the space as commercial but rather not do so. That would bring more traffic to the street and area. The property is huge and is able to handle sixteen (16) parking spaces and is willing to remove the garage.

BOROUGH OF SOUTH PLAINFIELD  
ZONING BOARD OF ADJUSTMENT MINUTES  
January 17, 2017

Vice Chairman Gustafson states that it is an existing non-confirming building and the commercial use was abandoned. Mr. Cusick states he has a first floor he cannot use. Mr. Lavender states it can be used for something that you do not want to. That does not create a hardship. Mr. Cusick questions what he can use the first floor as. Mr. Lavender states that R-10 allows single family homes, playground, schools and home office. It is a two (2) family which is pre-existing and the Board will not make Mr. Cusick remove the two (2) family.

Chairman Leonardis states, the property is located in a R-10 zone - a single family residence - with a ten thousand (10,000) square foot minimum lot. You currently have two (2) units. Requesting to add a third. Therefore, possibly three (3) units in a R-10 zone - a single family residence. You could convert the whole building into a single family.

Mr. Slachetka states that the lot is a bit over twelve thousand (12,000) square feet so it meets the requirement. Mr. Bucco states it already has a garage.

Chairman Leonardis asks... other than a place for you to live, what is the hardship? You bought the property knowing that it has two (2) apartments and a general store. Mr. Cusick states the hardship is that he is paying for taxes on the first floor that cannot be used.

Mr. Slachetka asks if the first floor has been official noted as abandoned. Mr. Sica states no.

Mr. Miglis states that on the Building Department Record Card it indicates '*11/04/02 abandoned use only two family*'.

Chairman Leonardis states that the tax records only state what the taxes are based on. It is determined that the taxes are based on two (2) units – two (2) family.

Chairman Leonardis asks Mr. Cusick are there two (2) separate utilities. Mr. Cusick states there are three (3) utilities. There is space for a fourth.

Chairman Leonardis would like information on the garage. Per Mr. Cusick, it is a three (3) car garage which he uses for storage and to work on his personal vehicle. If needed, he will utilize the space for the tenants or for parking.

Chairmen Leonardis asks how the usage of the rest of the property works. The property is on a hill and there is a fence on top of the hill. The tenants use the area at the bottom of the hill. They do not use the top part where the fence is.

Mr. Lemos asks how many bedrooms will be in the proposed apartment. Mr. Cusick states three (3) bedrooms. Mr. Lemos continues... there is only two (2) parking spaces for three (3) bedrooms. Mr. Cusick states yes. He believes the ordinance states two (2) parking spaces per unit. There are issues with the parking off of New Market Avenue. The driveway is used as entrance and exit with a lot of truck traffic on New Market Avenue. Currently, must back out. Mr. Cusick states that one (1) of the Engineers recommendations is to enlarge the parking for the ability to do a K-turn. He will do so.

Mr. Sica states that there is plenty of room in the area of the parking off of New Market Avenue. It can be enlarged to accommodate turning around and exiting forward.

Mrs. Cullen asks Mr. Cusick how many bedrooms are in apartments 1 and 2. He states two (2) in each – total of four (4) upstairs.

Mr. Miglis ask Mr. Bucco if the property is in need of impervious parking spaces since it is in a flood zone. Mr. Bucco states that in a flood zone you want something that will drain – not impervious. Stone driveway will drain. If you use 'dirty stone' like DGA when compacted it is just like having black top and water will sit on top. You want something that will drain as fast as it can.

Chairman Leonardis would like to know where on the property would you put six (6) designated parking spots – two (2) per unit. Mr. Cusick states three (3) car garage; one (1) next to the garage; two (2) off of New Market Avenue which more spaces can be added. The Board Engineer requested a seventh (7th) spot for visitors. Mr. Cusick agrees to do so along with adding an area for 'K' turns. He believes he needs an area of 25' X 40'. To the right of the garage, there is nineteen feet (19'). A parking spot can be added there.

BOROUGH OF SOUTH PLAINFIELD  
ZONING BOARD OF ADJUSTMENT MINUTES

January 17, 2017

Mrs. Eichler states Mr. Cusick said he would use the garage for parking. Is Mr. Cusick willing to empty them out? Per Mr. Cusick, yes. He will empty them out and have them accessible to the tenants. When it snows, all the tenants park off the street. The current tenants own three (3) cars. One (1) tenant has two (2) – One (1) tenant has one (1).

Mr. Lavender asks what the occupancy is for the tenants. Per Mr. Cusick, one (1) unit has two (2) women and two (2) children – one (1) unit has a man and woman and their three (3) children. Currently, nine (9) individuals and want to introduce one (1) more – himself. Mr. Cusick states that he is looking at this as it was once a three (3) family

Mr. Lemos asks if the families that lived in the house when it was a three (3) family related to The Scalera's. Mr. Cusick does not know.

Mr. Lavender asks what the basement is used for. Currently storage for the tenants. Furnace and hot water heater. Mr. Cusick states he has to duck when he goes down there.

Mr. Cusick states that the entrance to the attic is at the top of the stairs and it is a high attic. However, there is only a hatch to get into the attic. Tenants are allowed in the attic. There are only a few planks to get to various spots but no floor boards.

When Mr. Cusick purchased the property, he had a tank sweep done. A gas tank was removed from the New Market Avenue side along with a gas pump with a glass globe.

Chairman Leonardis requests additional information as to why this is considered a hardship. Mr. Cusick states he believes this is beneficial instead of a vacant area that can be vandalized.

Mr. Slachetka asks Mr. Cusick if he considered converting the structure into a two (2) family... Single residence on the first floor and a single residence on the second floor. Mr. Cusick states he has never considered to do so. Mr. Slachetka continues... Any reason why you would not consider it? Mr. Cusick states he has drawn up plans to make it a four (4) family but feels that would not be fair to the area. Therefore, was hoping to make it a three (3) family.

Mr. Sica states that he would be concerned about modifying a non-conforming use.

Mr. Slachetka states that two (2) family would be more confirming then a mix use for a R-10. The argument that is being made is either... the non-confirming use was abandoned or that it is an existing three (3) family use which is also non-confirming. A two (2) family would be more confirming in the R-10 zone. A three (3) unit dwelling, by ordinance, is defined as a multi-family use. Mr. Cusick is proposing a multi-family use in a single family residential district. That is why there is a need for both D1 - use variance - as well as a D5 - density variance. Mr. Cusick is proposing a greater density then what is permitted in the district.

Mr. Slachetka asks if they will have testimony from a Planner. Mr. Sica states that he thinks it would be in the best interest for Mr. Cusick to ask for a continuance to address some of the historical issues and have the Planner testify.

Mr. Miglis asks if he has any plans for the exterior of the structure. Mr. Cusick states it is concrete. Has been painted. Since it is concrete, siding cannot be used. Would like to replace the windows on the first floor... they are the old sash windows with the weights. The second-floor windows were recently replaced.

Chairman Leonardis states that how you are taxed does not indicate what the property usage is. The building records indicate two (2) family and the abandoned use of the first floor. There is nothing stating that it was converted to a three (3) family. The building record card states *'Pre-existing non-conforming 2-family - second floor and first floor store'* then handwritten *'abandoned use only 2-family'*.... November 4, 2002.

Mr. Slachetka states if someone had moved into the first floor and used it as a residence, it does not mean they were permitted to do so.

Mr. Sica asks when the ordinance was enacted. No one knows. Mr. Slachetka states someone would have to find out if the building was used as a three (3) family prior to the adoption of the zoning ordinance.

Mr. Cusick states that the area around him especially on New Market Avenue is primarily commercial. He was hoping to remove the commercial part of the property and make it all residential.

BOROUGH OF SOUTH PLAINFIELD  
ZONING BOARD OF ADJUSTMENT MINUTES  
January 17, 2017

Vice Chairman Gustafson states that behind the property it is all residential. Even though there are other mix-use properties in the area that does not mean it is acceptable. There is no application in front of the Board that is showing parking, drainage, lighting, buffering etc.

Chairman Leonardis opens the discussion to the audience.

Joe Risoli – 428 Highland Avenue, South Plainfield, New Jersey - addresses the Board. He is half way down the road to the right on Highland Avenue. There are many problems with parking. The address is on New Market Avenue but the entrance and mailboxes are on Highland Avenue. Fifty feet (50') from the Stop sign is the porch. There is a stone driveway where you can park one (1) vehicle. You cannot park in front of the garages because they block the sidewalks. If you park off New Market Avenue driveway where there is stone, people are not going to walk along New Market Avenue to the side of Highland Avenue – Ninety feet (90') - to enter the building. There are fourteen (14) houses on Highland Avenue... two (2) are vacant... three (3) people he did not see... he has nine (9) signature on a petition.

Chairman Leonardis states that the Board can look at pictures. However, cannot except the petition. Those who signed the petition were more than welcome to come to the meeting.

Mr. Risoli presented several pictures that he had taken three (3) weeks prior to the meeting.

- Exhibit Public 1 – taken on Highland Avenue towards New Market Avenue. Shows two (2) vehicles in front of the subject property's garage blocking the sidewalk. Showing the corner where the kids catch the bus.
- Exhibit Public 2 – taken on Highland Avenue looking towards the subject property. Shows several vehicles up to the Stop sign.
- Exhibit Public 3 – taken on Highland Avenue looking towards New Market Avenue. Vehicles on both sides of the street. Subject property to the right.
- Exhibit Public 4 – taken on Highland Avenue looking towards New Market Avenue. Vehicles on both sides of the street. Street and vehicles snow covered. Subject property on the right.
- Exhibit Public 5 – steps to the porch to the door the tenants use.
- Exhibit Public 6 – picture of each home on Highland Avenue in order of location.

Chairman Leonardis asks who the other vehicles belong to. Mr. Risoli assumes they belong to the neighbor across from the subject property. All single-family residences on Highland Avenue. Mr. Risoli would like to see this structure remain a two (2) family. However, he would like the property to be cleaned up. He states that flooding is bad and there are times they cannot get out. He loves the location... he is against the woods. Truck traffic on New Market Avenue is also an issue. Mr. Risoli's home is marked on Exhibit Public 6 with a star... fifth house on the right. Across from Highland Avenue is a tank company with trucks moving in and out.

Mr. Lemos asks Mr. Cusick how many children are in the building. Mr. Cusick states... one (1) tenant has two (2) and the other tenant has three (3). A total of five (5) children. Mr. Lemos continues... is there any designated area for these children to play? Mr. Cusick states no. They can use the back yard. They are not little children. Two (2) are in high school – two (2) are elementary. The entire property is fenced in.

Mr. Slachetka mentions that if this application is approved, there are requirements in the ordinance for amenities for multi-family homes.

Mr. Cusick states that the cars in the exhibits that are parked by the Stop sign are not his tenants. On school days, being that it's cold, the parents will drive up to the Stop sign and wait in their cars for their children.

Mr. Risoli states that the pictures were all taken at night. He does know that all those cars are not Mr. Cusick's tenants but parking is a problem.

Chairman Leonardis states that based on the current conditions there is a parking concern. Adding another unit will only intensify it further.

Mr. Cusick states he has the space and is willing to put more parking spaces.

Chairman Leonardis addresses Mr. Cusick. You have heard the concerns. We need a plan that talks about where you will put the cars on the property – laid out. Mr. Gustafson had mentioned several things. With parking cars on the

BOROUGH OF SOUTH PLAINFIELD  
ZONING BOARD OF ADJUSTMENT MINUTES  
January 17, 2017

property... is there any buffering to be done? Are there any improvements to the outside? Is there anything to make it more pleasing to off-set the intensity issue? Currently, we believe it is a two (2) family residence based on our 'books'.

Chairman Leonardis closes out the audience discussion.

Mr. Sica requests an adjournment until April 18, 2017. The Board grants the adjournment. Notices will carry.

**INFORMAL HEARINGS:** None

**OLD BUSINESS:** None

**NEW BUSINESS:** None

**CORRESPONDANCE:** None

**EXECUTIVE SESSION:** None

**ADJOURNMENT:** 8:23 PM

Respectfully Submitted,  
Joanne Broderick  
Recording Secretary