

BOROUGH OF SOUTH PLAINFIELD  
ZONING BOARD OF ADJUSTMENT MINUTES  
July 17, 2018

**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  
Maria Campagna  
Cindy Eichler  
Frank Lemos  
April Wasnick, 1<sup>st</sup> Alternate  
Joseph Scrudato, 2<sup>nd</sup> Alternate**

**Absent:**

**Ken Bonanno  
Darlene Cullen**

**Also attending:** Larry Lavender, Esq.; Stanley Slachetka, PP, AICP, Donna Bullock, PE

**MINUTES:** June 5, 2018.

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

**RESOLUTIONS:**

- A. Case # 07-18 -- Daniel VP LLC  
Block 182: Lot 1: R-10 Zone  
412 Lane Avenue**

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

**HEARING:** (2 Residential and 2 Commercial Applications)

- A. Case #24-18 -- Wojciech Balewicz  
Block 135: Lot 16: R-7.5 Zone  
1112 McDonough Street**

The applicant is requesting to construct a 28.5' X 13' attached garage. Variances being requested: Lot Area -- Required: 7,500 sq. ft. -- Existing: 6,200 sq. ft. -- Variance: 1,300 sq. ft.; Lot Width -- Required: 75' -- Existing: 62.50' -- Variance: 12.50'; Side Yard Setback -- Required: 8' -- Proposing: 4' -- Variance: 4'.

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Wojciech Balewicz – 1112 McDonough Street, South Plainfield, New Jersey – applicant is sworn in. Mr. Balewicz addressed the Board. Moved to South Plainfield fourteen (14) years ago with one (1) child. Now has two (2) children. Noticed recently the need for a garage for the children's toys, bikes etc. When moved, wife did not work – was in college. Moved from Brooklyn and previously from Poland. Currently, his wife works in a hospital. Mr. Balewicz works in distribution and leaves early. When it snows he has to shovel before he leaves - before 6 am.... Wife's car can stay in the garage and not have the need to shovel in the morning. Would like the garage where the existing driveway is currently. Will be removing the shed. Believes the garage will look nicer than the aluminum shed.

Chairman Leonardis questioned Mr. Balewicz:

- The garage will be attached to the home.
- The exterior will be vinyl sided to match the existing house. Originally thought of stucco but prefers siding – blue siding with white shutters on the windows.
- The entire house will be resided.
- Will be doing the work himself. My use a contractor to remove part of the driveway since he does not the proper equipment.
- Garage will be one (1) story with attic. To match the contour of the existing house.
- Unfinished attic with a light.
- House on right is corner lot. Approximately 40'-50' from the neighbors attached garage. Back of the house faces applicants side yard.

Chairman Leonardis stated the four foot (4') setback would be a greater issue if the neighbor's house was closer to the property line.

Vice Chairman Gustafson asked if there will be any windows on the right side of the garage. Mr. Balewicz stated he would like to put a window in the middle of the garage towards the neighbors. Chairman Leonardis asked if the window will be eye level. Mr. Balewicz stated yes, it will be in accordance with the fire escape. Just large enough to get natural light in the garage.

Mrs. Campagna asked how far is the house on the left side is to the property line. Mr. Balewicz stated approximately 7'. Chairman Leonardis stated that according to the survey there is ten feet (10'). Mr. Balewicz misunderstood and thought from the property line to his neighbor's house.

Mrs. Campagna asked if there will be a door from the garage to the house. Mr. Balewicz stated no. There is a height difference. Would have to add stairs in the garage which would not be pleasing. There is a bedroom and living room on the other side of the wall. Mrs. Campagna continued... only one (1) car can fit in the garage? Per Mr. Balewicz, yes.

Mr. Scudato asked why the garage is going back a few feet from the front of the house. Mr. Balewicz stated there is an electric meter approximately foot and a half (1.5') from the front corner of the house. Doesn't want to move it. If the roofs were in one line, it would look like a shed. By pushing it back will give the house character. The back roof will meet together. The front roof will be a step down.

Chairman Leonardis opened the discussion to the Public. No questions or comments.

Chairman Leonardis stated this is a typical cape cod with no garage when it is built. The applicant is volunteering to remove the shed. Chairman Leonardis asked if there is any intention of running a business out of the garage. Per Mr. Balewicz, no.

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

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**B. Case #25-18 -- Karl L. Jackson**  
**Block 522: Lot 1: OPA-1 Zone**  
**132 South Avenue**

The applicant is requesting to construct a 24' X 30' detached garage. Variance being requested: Maximum Size Allowable: 576 square feet -- Requesting: 720 square feet -- Variance: 144 square feet.

Karl L. Jackson – 132 South Avenue, South Plainfield, New Jersey – applicant, is sworn in. Mr. Jackson addressed the Board. Would like to install a steel building – garage. Has two (2) classic cars, one (1) 'hotrod' and motorcycles. The existing two (2) car garage has run out of space. Would like the new structure to store his cars, boat and a couple of motorcycles.

Vice Chairman Gustafson questioned Mr. Jackson:

- Is Majestic Towing off the property? *Yes... on West Street.*
- The existing variance is not being used. *No.*
- Is there a desire to bring that variance back? *No*
- What is the storage area behind the house? *That is someone else's. They store plow equipment during the summer time and use it during the winter.*
- Is that your property? *Yes.*
- Where is the location of the new structure? *Directly across from the house.*
- Is the proposed structure in the rendering that is before us with the double doors? *Yes.*
- The double doors will face the driveway – left to the house, right to the garage? *Yes. The doors will face the house.*
- Colors? Schemes? *Same as the house... beige with red trim and brown roof.*
- Height? *Doors are eight feet (8'). Believes peak is twelve feet (12').*

Chairman Leonardis asked if West Street is the road that leads to the old Restaurant Depot. Mr. Jackson stated that West Street leads into their driveway. The road with the railroad tracks is South Avenue.

Chairman Leonardis asked how the structure is built:

- Steel Building.
- Needs to lay a concrete slab.
- Company comes and builds it.

Chairman Leonardis questioned Mr. Jackson:

- Will there be a business out of this structure? *No... storage only.*
- Insulated panels? *Yes.*
- Electricity? *No.*
- Heat? *No.*
- Attic? *No.*
- Just a shell? *Yes... just a shell.*
- How far from the property line? *At least one hundred feet (100').*
- Any Windows? *Two (2)... one (1) on each side – 36' X 36'. A man door 80' x 32'.*
- Will the doors be electric or manual? *Manual.*

Mr. Lemos confirmed with Mr. Jackson that the building is steel. Would like to know if it is grounded. Mr. Jackson believes it may not but if it is required it will. There is no electric. Will be anchored.

Vice Chairman Gustafson asked Mr. Jackson if he would oppose as a condition that this garage has nothing to do with existing variances regarding commercial activities. Mr. Jackson stated he has no problem with it.

Chairman Leonardis asked what variances exist. Vice Chairman Gustafson stated that Majestic Towing may operate out of this property. He testified he is no longer using the property for Majestic Towing. Majestic Towing is in the old Federated Fire location – across the street.

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Chairman Leonardis asked Mr. Lavender if they can vacate the variance. Mr. Lavender stated it can be done. Mr. Jackson stated he would rather not incase he wants to move it back. Only renting the building. If the owner sells the building them he's stuck.

Vice Chairman Gustafson stated that he believes there may be other issues once the Zoning Officer and/or the inspectors visit the site that the applicant will have to contend with.

Chairman Leonardis opened the discussion to the Public. No comments or questions.

Chairman Leonardis stated the property is very large and sees no issue with the oversize garage on the property as long as it matches the house and looks like it belongs.

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

**C. Case #21-18 -- CarrolsBK**  
**Block 56: Lot 1: split zone – OBC-1 & R-7.5 Zone**  
**1517 Park Avenue**

The applicant is requesting a Preliminary and Final Site Plan and an expansion of a non-conforming Use Variance with Bulk Variances to renovate façade, parking, walkways and drive-thru. New sign placement.

Bob Smith – Bob Smith & Associates, LLC, 216-B1 Stelton Road, Piscataway, New Jersey – attorney for applicant addressed the Board. Burger King at 1517 Park Avenue has been at this location since 1978.... Forty (40) years. After forty (40) years it needs an update. Seeking site plan approval and bulk variances. Site plan approval involves new signage and minor improvements to the site. The bulk variance is primarily for signage. Also, require a use variance. Burger King is in the OBC-1 where most of the activity is. However, part of the parking lot is in R-7.5 zone – residential. Therefore, 'split zone lot'. Primary work is in the OBC-1 – permitted. Part of the improvement is to become ADA compliant and to improve the signage. Will call upon three (3) witnesses: Steve Markham – representative of CarrolsBK; Brad Bohler – Professional Engineer; Jim Kyle – Professional Planner.

Steven Markham – 5807 Harvey Place, Alexandria, Virginia – representative of CarrolsBK. Mr. Smith questioned Mr. Markham:

- Employed by Carrols Corporation as a Construction Manager.
- Has been with Burger King for thirty (30) years.
- 'Skin job' – reface outside of building. Take off eaves. Look more modern. Bring handicap area into compliance.
- As far as aware, good relationship with the Borough.
- ADA compliance:
  - Parking spaces the proper leveling. Meet today code in grading.
    - If does not bring up to code, can get sued.
- Signage:
  - Button logos on the side.
  - Letters on the front.
- Inside renovations:
  - Replace entire dining room.
  - Play ground removed many years ago. Now an empty glass room.
  - Approximately seventy-four (74) seats today. Will be reduced to sixty-two (62) seats.
  - Modern equipment.
  - ADA bathrooms.
- Majority business is through drive-thru.
  - Seventy percent (70%).
  - Parking is adequate.
- Update facility – better for customers.

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Board Members questioned Mr. Markham:

- What is a 'button logo'? *Round sign.*
- Will the new signs be fluorescent? *New signs will be LED.*
- How many current handicap parking spots? Any additional proposed? *Currently two (2). Adding one (1) to create three (3) spots total.*
- Will the whole parking lot be redone or just repaired? *The whole parking lot is in need of repair... Doesn't know what is being overlaid, repaired or sealed.*
- Will the drive-thru remain where it is? *Everything is remaining where it is... the Menu Board, the Clearance Sign, the drive-thru lane are all remaining where they are. What is being change is the leveling of the parking spaces.*
- Will the driveway be widened or remain the same? *Not sure... there was a discussion of widening the entrance.*
- Is the existing parking more than what's needed? *There is more parking then what is needed.*
  - How much more parking exists then needed? *No idea how many more.*

Mrs. Campagna stated that there is little space between the parking lot and the residential homes in the rear of the property. If there is more parking then needed, could you there be more grass or trees planted to add a larger buffer from the homes. Mr. Smith stated that he would like Brad Bohler to address the comment when he is sworn in as a witness.

Mr. Smith asked Mr. Markham to address Mr. Slachetka's comment in his review letter regarding the overhead clearance bar for the drive-thru lane. Mr. Markham stated he met with Dominic Demico, Jr., Code Official and reviewed the plans with him. Brought pictures of the overhead clearance bar and the order station. Mr. Demico's letter and the two (2) pictures were entered into evidence.

- Exhibit A-1 – Picture of a clearance bar newly installed at another site under construction that is similar to what is being proposed at this location.
- Exhibit A-2 – Picture of an Order Menu newly installed at another side under construction that is similar to what is being proposed at this location
- Exhibit A-3 – Letter dated July 17, 2018 from Dominic Demico, Jr. addressed to Mr. Steven Markham.

Mr. Slachetka asked Mr. Markham if the Exhibits are in response to his letter dated July 10, 2018 – Item E - #4 Signage on page 6 which carries over onto page 7. Mr. Markham stated yes.

Chairman Leonardis opened the discussion to the Public.

Kevin Sheats – 121 Sprague Avenue, South Plainfield, New Jersey – was sworn in and addressed the Board. He lives across the street from the parking lot. Has been there for forty-two (42) years. Was there when the building was first built. His concern is the heading lights from the parking lot. When the original building was built there was a fence and shrubs between the street and parking lot. Several years ago, it was all taken down and little bushes were planted that do not block head lights coming into his living room window. Would like a fence or improve the shrubbery. Also, the parking lot is a like a 'swimming pool' after it rains. Holds approximately two inches (2") of water along the curb along the Sprague Avenue side of the parking lot.

Mr. Lavender asked if Mr. Sheats has any pictures. Mr. Sheats stated they are on his phone but never printed it. Mr. Lavender advised him that the Board cannot take that as evidence.

Mr. Sheats continued... the fence is bent down with weeds growing through it – 'a dump'. Went away for three (3) weeks and it was all cleaned up. The landscapers blow the stuff down the storm sewer. Next to the property is a foreclosed home that was just sold and being fixed up. But the fence all pushed down.

Mr. Markham stated he did see the fence. The fence near the handicap spots is slightly bent. The fence that Mr. Sheats is discussing needs repair and will be repaired or replaced.

Using an aerial photograph on a telephone, Mr. Sheats shows the location of his home in relationship to the Burger King. There were shrubs along Sprague Avenue and a tree which are no longer there. Cars come in and park and headlights shine into his living room. The entire parking lot from the driveway back is all broken up.... In need of repair. The big round spot is where the water remains when it rains.

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Mr. Lavender stated there is a screening issue and a drainage issue. Believes Mr. Smith will have his experts discuss the issues. Mr. Smith stated correct. Mr. Lavender asked Mr. Sheats if he is able to stay and listen to the experts. Mr. Sheats stated yes.

Mr. Slachetka stated that the diagram that was being referenced is the aerial photograph in the sign package that was submitted with the application.

Brad Bohler – 35 Technology Drive, Warren, New Jersey – Engineer for the applicant, was sworn in. Mr. Smith questioned Mr. Bohler:

- Principal at Bohler Engineering.
- Existing Conditions:
  - Using the Boundary Topography Survey that is before the Board:
    - Entrance off of Park Avenue... 'In Only'.
    - Full movement on Sprague Avenue.
    - Exit out of the drive-thru.
    - Seventy-Nine (79) parking spaces.
    - ADA parking as you enter off Park Avenue.
      - Currently, two (2) ADA parking. Below today's requirement.
      - Along the property line of the auto repair shop.
      - Approximately 1.5' from the property line.
      - Small wall in place.
      - Will be going from two (2) ADA parking to four (4) ADA parking spaces as per requirement.
    - Current clearance bar is at the drive-thru.
    - Order point – speaker box. 3.5' tall.
    - Menu board.

Ms. Bullock asked if there is an increase of parking from existing to proposed. Per Mr. Bohler, there will be no change in the number of parking space. Ms. Bullock continued... how many spaces are over the requirement? Mr. Bohler stated the requirement is forty (40) parking spaces. Therefore, over by forty (40) spaces.

Using Exhibit A-4 – C-1 Overall Construction Plans, Mr. Bohler describes the proposed site work:

- Limited site work.
- 3,246 square foot building.
- Drive-thru on the north-east portion of the property.
- Proposed placement of the clearance bar.
- Replacement of the 'order point' which will have a light over it.
- Display showing what is being ordered.
- Menu board.
- Providing ADA access sidewalk to the building... complaint with requirement.
- Providing ADA parking spaces.
- New grades for ADA parking spaces.
- Curb to be repaired by ADA parking that is falling.
- Proposing in-kind replacement of an extended curb.
- Remove vestibule on the south side of building.
  - Providing an ADA accessible door.
- Front door will be upgraded to ADA compliance.
- Interior work in the bathrooms to make ADA compliance.

Mr. Slachetka stated that the location of the ADA parking has an existing variance. Mr. Slachetka asked Mr. Bohler if the new parking spaces will have any further encroachment to the property line. Mr. Bohler stated no... it will remain the same.

Using A-2 supplied with the packet before the Board, Mr. Bohler described the exterior 'facelift':

- Angle gable to be removed.
  - Will be straight up.

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- Exterior will be in Earth tones.
- Button sign facing ADA parking - 28.26 square feet.
- Button sign facing Sprague - 19.6 square feet.
- Button sign facing Park - 19.6 square feet.
- 'HOME OF THE WHOPPER' runs across the front - 26' long... 23' required.

Mr. Bohler returned to Exhibit A-4:

- Shows the zone line.
- Two (2) properties to the south... auto repair shop and duplex or multi-family building.
- Zone line is between the duplex or multi-family building through the applicant's property.
- Commercial side is to the west (front) of the property.
- Residential side is to the east (rear) of the property.
- Proposed Clearance Bar is along zone line.
- Clearance Bar requires variance for height... 10.5'.
  - Protect cars that go through.
  - Proposing a canopy... sun and rain protection.

Mr. Bohler stated that the parking lot needs repair. It will be repaired. Mr. Sheats stated it was overlaid once. The parking lot was a lot worse than it is now.

Vice Chairman Gustafson stated that there is an overage of parking stalls. He suggested to remove some stalls and place a larger buffer near the residential area. That would save on macadam and water retention.

Mr. Bohler stated from a cost-effective side... it is a wash. Removing paving, replacing curbs and landscape may be more expensive.

Chairman Leonardis suggested that since the building is being modernized, why not put a four foot (4') black fence with shrubs / buffer to the neighbor's house. The shrubs will grow through the fence. A four foot (4') fence from the neighbor's house to the driveway.

Mr. Bohler stated that the curb line is on the property line.

Mr. Slachetka confirmed with Mr. Bohler that there is no sidewalk along Sprague.

Mr. Slachetka stated there is an ordinance discusses commercial parking lots within residential zones. This parking lot is in a residential zone. The ordinance requires a full vegetation screening.

Ms. Bullock stated the curbing that is being discussed is the curbing for the parking stalls. There is an additional ten feet (10') to the street curb.

Chairman Leonardis asked who has the jurisdiction over the ten foot (10') area. Mr. Bohler stated it is a public road.

Mr. Bohler stated there may be a problem with placing a fence on the right-a-way. A fence can be considered a structure.

Mr. Slachetka stated that the Borough would have to provide an easement to construct a fence within the right-of-way.

Chairman Leonardis stated the fence can be put along the existing curb and move the parking spaces into the lot and restripe.

Mr. Smith requested a five minute recess. The Board grants the recess.

Chairman Leonardis calls to order the hearing.

Mr. Smith stated that the applicant may have a solution.

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Using Exhibit A-4 and a green marker, Mr. Bohler stated there are fifteen (15) spaces that run the length of the neighbor's property (Sprague). Proposing to remove the parking spaces creating approximately eighteen feet (18') of space. Plant row of trees and a row of shrubs. No fence since it is high and low. Proposing to remove ten feet (10') along the back (along the adjoining neighbor property line) which will require losing two (2) additional parking spaces for circulation. Will plant Evergreen trees. Will remove the back fence and repair the rest.

Vice Chairman confirms with Mr. Bohler that the southerly fence will be repaired or replaced.

Chairman Leonardis asked Mr. Sheats if this is to his satisfactory. Mr. Sheats stated yes... With the addition of the trees and shrubs, the paving of the parking lot, the water issue will be illuminated.

Mrs. Campagna asked the area where there are duplex and auto repair shop, will there be shrubs and trees added. Mr. Bohler stated no... the fence will be repaired or replaced in the area.

Chairman Leonardis asked Mr. Bohler to address the drainage. Mr. Bohler stated once the parking lot is repaired and/or repaved, the water will drain properly.

Mr. Scrudato asked if there is a sewer for the water to run into. Mr. Sheats stated outside of the driveway, approximately five feet (5') is a storm drain. Another is in front of his house.

Mr. Sheats stated that a few years ago, the driveway was repaved. Now when cars go in and out they scrap the bumper on the pavement. When the bread truck leaves at 4 am, the rear bumper scrapes. If the lot is to be paved, can that angle be adjusted?

Chairman Leonardis stated that the driveway angle/apron needs to be readjusted.

Chairman Leonardis asked if there are any improvements to security or lighting. Mr. Bohler stated he received the letter from the Planner regarding lighting. Will agree to replace the lighting with LED lights with outside shields.

Chairman Leonardis asked if there is any additional lighting or security. Mr. Bohler stated just what has been discussed.

Mr. Slachetka stated the clearance bar saying is very clever '*The easiest game of limbo ever*'. The concern is with today's selfies and Instagram, it may encourage people to take photographs showing themselves with the 'limbo bar'. Mr. Markham stated that this clearance bar is in several locations and has not gone viral. It can be considered a sign as opposed to a directional sign.

Mr. Markham stated they can order the clearance bar with just the words '*clearance*'. Mr. Slachetka stated that would be recommended.

Chairman Leonardis stated remove the slogan and have '*clearance*'.

Ms. Bullock asked Mr. Bohler to explain the handicap door on the north side. The door is handicap accessible with a 4'X4' landing. Mr. Bohler stated that a 4'X4' landing is not a requirement. There is 3.5'. Mr. Bohler will add those dimensions onto the plan.

Ms. Bullock stated that the handicap accessible design, slopes and crossings are adequate per design.

Mrs. Smith asked Mr. Bohler if he had the opportunity to review the Najarian Associates July 13, 2018 review letter. Mr. Bohler stated yes... entitled first engineering review.

Chairman Leonardis asked if there is anything in the review letter that the applicant cannot comply with. Mr. Bohler stated no objections. There are a few items that the Planner will testify... but no objections.

Ms. Bullock asked regarding the one-way sign. Mr. Bohler stated they will move it.

Mr. Smith asked Mr. Bohler if he had the opportunity to review T&M Associates July 10, 2018 review letter. Per Mr. Bohler he had.



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- Will comply with #2 – provide bulk table.
- Variances:
  - Number of signs... maximum of three (3) signs are permitted – four (4) proposed.
  - Length of sign “Home of the Whopper”... permitted is 6’ - proposed 23’.
  - Clearance bar height.

Ms. Bullock stated that the sign location is fifty feet (50’) setback. Mr. Bohler stated that the current sign is twelve feet (12’) and will not change. Ms. Bullock asked if there is a need for a pre-existing sign variance. Mr. Bohler stated that the sign is not being touched. Mr. Slachetka stated it is a pre-existing non-confirming situation.

Mr. Bohler returns to T&M Associates July 10, 2018 review letter:

- Page 7 – Waivers – have agreed to Landscaping and Lighting Plan.
- Page 8 & 9 – Planning Comments
  - Item 1 - will comply.
  - Item 2 & 3 – already testified.
  - Item 4 – testified.
  - Item 5 & 6 – will comply.

Mr. Smith questioned Mr. Slachetka regarding the comment on page 6 ‘A variance will be required for the drive-thru clearance bar. In support of this variance request, the applicant should provide the Board evidence of a determination from the Borough’s Construction Official and the Traffic Safety Commission that the sign will not cause any visual or traffic hazards.’ This is an additional variance that is being requested.... Height of the clearance bar.

Vice Chairman Gustafson stated that there is a letter from the Environmental Commission requesting landscaping and additional trees on Sprague Avenue. Mr. Bohler stated he will speak with the Environmental Commission as to the type of trees they are recommending.

James Kyle – P.O. Box 236, Hopewell, New Jersey – Professional Planner, is sworn in. Mr. Smith asked Mr. Kyle if he had the opportunity to review T&M Associates July 10, 2018 review letter and is there any items that he disagrees with. Mr. Kyle stated that he has reviewed the letter and there are no items that he disagrees with.

Mr. Smith asked Mr. Kyle to provide the justification to grant the variances being requested:

- D-2 Variance – split zone. Expand an existing non-conforming use.
  - Positive criteria:
    - Believes it does satisfy the fact that the public welfare is promoted because the site is particularly suited to the proposed use. It is an existing Burger King restaurant. It has been there for forty (40) years. The location is appropriate. The expansion involves primarily to the non-residential zone portion. Pavement will be removed which will reduce the non-conformity in the residential portion.
    - In Mr. Slachetka’s letter, there is a reference to the Burbridge case that aesthetic improvements can be a positive criteria. The improvements to the restaurant and the handicap parking are a big improvement to public safety – purpose A. Restaurant will be modernized, signage updated and drive-thru updated. Technology in the new ordering system and order confirmation board read ambient sound and adjust according. The drive-thru faces Sprague Avenue this will benefit the residents on the other side of Sprague.
    - Visual improvement – purpose I - will create a desirable visual environment.
  - Negative criteria:
    - Impact to the surrounding properties – improvements to the drive-thru equipment will reduce noise.
    - Extensive removal of pavement with additional landscaping will benefit.
    - Improvements will not come closer to the adjacent properties. Any current non-conformities will not get worse.
  - Intent and purpose of the zone plan and zoning ordinance:
    - Split lot zoning happens often. Improvements are in the commercial zone area.
    - Improving condition in the residential zone.
  - Goals and objectives of the Master Plan:
    - Preservice the integrity of the existing neighborhoods.

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- Provide adequate commercial uses of the community.
- Provide a desirable visual environment.
- Additional buffering does not impact the intent and purposes of the zone plan.
- Can meet the enhanced proof and can reconcile the fact that this use is not permitted in the residential zone but virtue by fact of the improvements... pavement removal and additional landscape. If required can meet the enhanced quality of proof under Medici.
- Signage Variance:
  - Limit of three (3) signs includes the free-standing sign. If free standing sign is included, proposing a total of five (5) signs. Variance is required.
  - Length of the sign on the front – ‘Home of the Whopper’ – is twenty-three feet (23’) where six feet (6’) is permitted.
  - Currently on the front of the building – button sign and words ‘Burger King’. Replacing in kind with ‘Home of the Whopper’.
  - Drive-thru is not permitted. Accessory structures in the front yard.
    - C-2 variances - where the benefits out way the detriments.
      - Purpose A – safety and general welfare. Identifying the drive-thru entrance and handicap accessible entrance.
      - Purpose H – to allow the free flow of traffic. Drive-thru apparatus will speed up process and accuracy of order.
      - Purpose I – desirable visual environment. Sign package accents building. Brings attention to key points... entrances and drive-thru.
      - Clearance bar is a safety issue. There is a canopy over the drive-thru window to ensure customers are protected from weather.
      - Order board has a roof structure.
      - LED lights which are more controllable and should not cause undue glare.
      - Purpose of the zone plan. Sign ordinance does not have stated purpose. Would like to make sure to reduce visual clutter and eliminate nauseous factors, provide safe signage aids to navigate.

Mr. Slachetka asked regarding the D-2 variance by adding landscaping buffer would that be less intrusive to the residential area. Mr. Kyle stated ‘absolutely’. Mr. Slachetka continued... previously stated that it is not just beneficial to the site, but benefits the community. Mr. Kyle stated the changes that have been discussed... removal of pavement, the landscaping... specifically will be more beneficial to the neighbors then just the beautification of the building.

Chairman Leonardis opened the discussion of the Public. No questions or comments.

Chairman Leonardis asked if this is the same type of renovations done to the Piscataway Burger King. Mr. Markham stated he believes so.

Chairman Leonardis stated that the Burger King has been there for so many years and everyone has gone there for some event.

Mr. Scudato asked if the Burger King will be closed for a period of time. Mr. Markham stated yes... approximately two (2) to three (3) weeks depending on what the general contractor needs.

Mrs. Campagna asked when do they plan to begin work. Mr. Markham stated he is not sure. They have been trying to get to this point for a year. Hoping to get it done in 2018.

Mr. Smith stated his current issue is a memorialized resolution. He would like the Board to consider a special meeting in early August for the memorialization of the resolution. Chairman Leonardis stated that may be difficult due to vacations. Mr. Lavender stated possibly a letter from Mr. Smith assuming all risk. Then Mr. Lavender would email the Building Department. Ms. Bullock stated the bonds and Performance Bonds need to be posted prior to permits. Mr. Smith stated that there is a new law that does not require onsite bonds. Ms. Bullock stated correct, they are maintenance bonds and inspections. However, there is offsite work. Mr. Bohler stated it is a County road and bonds will be posted with the County.

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Mrs. Campagna stated coming in the entrance was a hard turn into the site. While repaving, will it be widened or more level to the road. Mr. Bohler asked which entrance... Park or Sprague. Mrs. Campagna stated Park.

Mr. Bohler stated that the County asked that the concrete apron be repaired which are in our plans currently. There will be a brand-new apron. Mrs. Campagna asked if it will remain the same width. Mr. Bohler stated yes... it is an entrance only driveway.

Mr. Slachetka asked Mr. Bohler if he will be addressing the entrance/exit on Sprague with the scrapping. Mr. Bohler stated yes.

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

**D. Case # 10-18 -- Carvana, LLC**  
**Block 473.01 & 473.02: Lot 5 & 6: OBC-3 Zone**  
**3221 & 3201 Hamilton Boulevard**

The applicant is requesting Preliminary and Final Site Plan with a Use Variance for a warehouse / distribution and truck terminal with outdoor storage of vehicles.

Chairman Leonardis read an email addressed to the Board Secretary from Larry Calli, Esq., attorney for the applicant requesting an adjournment to August 21, 2018 with notices to carry. Hearing moved to August 21, 2018 and notices will carry.

**INFORMAL HEARINGS:** None

**OLD BUSINESS:** None

**NEW BUSINESS:** None

**CORRESPONDENCE:** None

**EXECUTIVE SESSION:** None

**ADJOURNMENT:** 9:25PM

Respectfully Submitted,  
Joanne Broderick  
Recording Secretary