

BOROUGH OF SOUTH PLAINFIELD
ZONING BOARD OF ADJUSTMENT MINUTES
MAY 17, 2016

Chairman Leonardis opened the meeting at 7:00 pm.

Please stand for the PLEDGE OF ALLEGIANCE.

This meeting was being 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 & providing same to The Borough Clerk.

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

ROLL CALL:

Present:

**Gino Leonardis, Chairman
Dave Miglis, Vice Chairman
Kenny Bonanno
Maria Campagna
James Gustafson
Frank Lemos, 1st Alternate**

Absent:

**Cindy Eichler – Excused
Darlene Cullen, 2nd Alternate - Excused
Robert Hughes - Excused**

Also attending: Larry Lavender, Esq.; Nicholas Dickerson, PE; Bob Bucco, Jr., PE, CME, CPWM

MINUTES: April 5, 2016 Meeting.

Mr. Lemos made the motion, seconded by Mrs. Campagna, to accept the above stated Meeting Minutes. Those in Favor: Mr. Bonanno, Mrs. Campagna, Mr. Lemos, Vice Chairman Miglis and Chairman Leonardis.

RESOLUTIONS: (2)

**A. Case #01-16 -- Ashwani Kumar (Ricky Bawa)
Block 528.04; Lot 32; R-7.5 Zone
103 Spisso Court**

Mrs. Campagna made the motion, seconded by Mr. Hughes, to **GRANT** the applicant's request for a side yard setback of five (5) feet. Those in Favor: Mrs. Campagna, Mr. Hughes, Vice Chairman Miglis and Chairman Leonardis. Those oppose: Mr. Bonanno, Mr. Lemos.

**B. Case #14-15 -- The Tabernacle Inc.
Block 308; Lot 14; M-3 Zone
1253 New Market Avenue**

Mr. Bonanno made the motion, seconded by Mr. Lemos, to accept the owner's request to have their case **DISMISSED** without prejudice. Those in Favor: Mr. Bonanno, Mrs. Campagna, Mr. Gustafson, Mr. Lemos, Vice Chairman Miglis and Chairman Leonardis.

HEARING: (1 application – previously heard on March 15, 2016)

**A. Case # 3-16 -- CORE ITS, LLC
Block 524: Lot 9: OPA-1 Zone
109 Bushwick Avenue**

The owner is proposing a two (2) family residential duplex; the parcel is currently vacant due to the prior dwelling being demolished.

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Michael Gast, Esq. is representing the applicant in the absence of David Dressler, Esq. Testimony previously heard from the applicant's: Architect – Joel Zieden; Contractor – Tomas Doczi; Engineer – Andrew Wu, PE... all are present. Also present is Karl Peters, PE, PLS, PP, CO – Planner.

Mr. Gast addresses the board. He starts with reviewing the Mr. Peter's report. However, the report was never received by the Board or Board Secretary. Copies are made and distributed to the Board.

Mr. Peters - 720 King Georges Road, Fords, NJ - is sworn in as an expert Professional Planner. Mr. Peters addresses the board... The owner requests to construct a two (2) townhouse duplex on an irregular lot size of approximately 13,550 square feet or .031 acres at the end of Bushwick Avenue and right-of-way for Route 287 situated in the OPA-1 zone which is not the use for this zone. Mr. Peters has visited the site several times and has reviewed the Master Plan.

Exhibit A1 is presented to the board – vicinity plan, Durham Avenue, apartments in the AH-1 zone; an older photo of the home that previously existed prior to being demolished which was a two (2) family home; Route 287 above the 109 Bushwick Avenue.

Planners report is labeled as Exhibit A2. Route 287 borders the property on the left hand side. McDonald's borders the property on the rear yard; vacant land on the left side; across from the property are apartments in the AH-1 zone; across from Bushwick Avenue by Helen Street are offices buildings and Quick Chek convenience store with a gas station.

Mr. Gast questions Mr. Peters:

- Did he investigate if any permitted uses would be viable on the parcel?
 - The only possible use would be an office building. Commercial building or Funeral Home will not have enough space for parking. With setbacks and parking requirements - maximum twenty (20) spaces can be made. No room for circulation of vehicles. The maximum building size in the allotted area is 2,000 square feet... two (2) story building would equate to 4,000 square feet which would work with the allotted parking space.
- What is the feasibility of building an office building?
 - The area is not attractive to the proposition of an office building. The property of McDonald's did not have sufficient space for an office building. There is no demand for office space along Route 287. A Census from 2010 shows that the residential rate of occupancy in South Plainfield is above 97%. Therefore an office building is not financially attractive.
- What is the suitability of the project?
 - There was a previous two (2) family dwelling on the site which is across the street from residential dwellings. With the reconfiguration of Bushwick Avenue and Helen Street the lot is recessed in a little cove away from Durham Avenue sight. Therefore, less attractive for business use but attractive for residential use. Based on his research of the Master Plan and Land Use Law it calls for a variety of housing types. Existing home was a modest two (2) family dwelling. The proposed two (2) family dwelling will have improved esthetics, current features and more living space. The two (2) family home is preferable then an office building because of the impervious coverage of an office building. The dead end of the street is more suitable for a residential unit than a commercial.
- As a Planner, what is best suitable for the area?
 - It is not an attractive location for business - there is no traffic.
- Is the variance for this site a detriment to the area?
 - No, it's a small isolated parcel.
- Is there marketability for an office building?
 - It is less attractive... will be harder to rent and limited to what type of businesses. It is a hardship to the property owner due to the size and location of the lot for the zone. He has looked into the Zoning Ordinance and the Master Plan. Because of its unique character, size and location, a small residential area will create a nicer visual environment with less impervious coverage.

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Revised plans for the two (2) unit townhouse are in front of the Board for review.

Chairman Leonardis asks Mr. Peters if the owner has looked into purchasing the empty lot next door. Mr. Peters does not know. According to Tomas Doczi, the empty lot is owned by the Association (Apartments) across the street. The owner has contacted the Association requesting to purchase the property. At this point, has not heard from them. After researching the property, the empty lot that is in question once belonged to the existing house. However, the previous owners sold the land to the Association.

Vice Chairman Miglis asked Mr. Doczi when did the owner purchase the property... October 2015.

Mr. Doczi proceeds to address the board... since there was a two (2) family house pre-existing the owner believed he would be able to build another two (2) family dwelling after demolishing the existing home. However, when they applied for a Zoning Permit, they were denied and discovered that the existing house is in an OPA-1 zone.

Vice Chairman Miglis asked Mr. Doczi that when the owner purchased the property with the existing home, did they look into the zone... they did not. They assumed that since there was an existing two (2) family dwelling that they would be able to build a two (2) family townhouse. Since it was taxed as a two (2) family home, they would demolish the existing home and build a nicer two (2) family townhouse in its place. Chairman Leonardis states that the way a property is taxed does not constitute that its legal. It was determined at the previous meeting (March 15, 2016) through the assessing card and building card that the existing house was a legal two (2) family. It was verified that the existing house had a fire and it was beyond repair. Therefore, they demolished it.

Chairman Leonardis asks Mr. Peters what size of an office building does he believe would be suitable for the lot size. Mr. Peters said he has not investigated the idea. Architect Joel Zieden addresses the board... depending what is needed in the area would govern what size of a building is required.

Chairman Leonardis discusses the office buildings adjacent to the corner at the light at Bushwick Avenue and Helen Street... Approximately 75 units of various types of businesses (dentist, doctors, construction office etc.).

Mr. Zieden states if they build an office building in a less optimal location, rent would be less and therefore, the cost to build needs to be less.

Vice Chairman Miglis questions why someone who does this for a living didn't do their due diligence and researched the property. Mr. Zieden believes that putting a house on the property is a better use than an office building since there is no traffic. The owner had every intension to build a two (2) family home when he purchased the property since there was an existing two (2) family home.

Mr. Zieden disagrees with Vice Chairman Miglis that it is better to leave the existing structure than to knock it down. Mr. Zieden believes leveled off land is worth more than a dilapidated structure. Vice Chairman Miglis states that the foundation is left which is filled with water and growth. Mr. Zieden stated that the owner expected the approval process would go smoothly since there was an existing two (2) family house.

Mr. Lavender and Mr. Gast agree that the owner did not do their due diligence before getting to this point and that it should have no bearing as to what the application is requesting.

Chairman Leonardis proceeds to ask all the witnesses if anyone spoke to a realtor. Mr. Peters states he did not. However, he did research online for similar 4,000 square foot office spaces existing in South Plainfield one week prior to this meeting. There are approximately 14 properties in the 4,000 square foot range in various space of quality and appearance. He believes that this is the largest size structure that can be built on the lot in question. Assuming they do a water detention under the parking lot, no room in the surrounding area to do so. A residential unit of the same size requires parking for four (4) vehicle – two (2) spaces per

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unit. For an office building of the same approximate size, it will require twenty (20) spaces along with handicap spots and accommodation of ramps.

Mr. Gustafson questions Mr. Peters, that a residential development be less expensive than commercial... yes. Mr. Gustafson states that the owner is before the Board for a hardship based on cost factors. That from all the testimony that's been heard, it is his conclusion that a residential unit is less expensive than commercial building. Mr. Peters declines to address the statement. However, Mr. Zieden agrees to the statement.

Mr. Peters states the negative criteria associated with the development is traffic noise and excessive lighting. A residential building is low for this type of criteria.

Mr. Gustafson questions if there was any consideration of Route 287. Mr. Peters states there is no direct connection to Route 287.

Mr. Gustafson questioned the witnesses if there was any consideration why the AH-1 Zone was placed in an industrial location, turned residential and never crossed the street where there was a house. There was a reason why it stopped at Bushwick Avenue leaving the other side as industrial and why McDonald's, Quick Chek and gas station are at the Gateway into South Plainfield. Mr. Peters states that the property is tucked away from the Gateway. Therefore, was not an issue. Except for the dead end and that a house was there before, Mr. Gustafson has not heard enough as to why a two (2) family dwelling is suitable for the lot. According to Mr. Peters there is a housing need. Mr. Gustafson starts that's debatable since there is no realtor present.

Mrs. Campagna would like Mr. Peters to address Environmental Specialist Dr. Alice Temple's letter. The accumulation of water between what was the existing house and McDonald's. It's a possibility it's from the drainage of McDonald's which has impervious surface. When the existing house was there, McDonald's was not. Noise and emissions from Route 287 has not been addressed. Per Mrs. Campagna that's a negative impact to the potential residents. Mr. Peters was at the site several times and did not feel there was a noise factor. Mr. Gast asks if there is a concrete barrier along Route 287.... there is a high berm. Mr. Lemos asks if there is any drainage consideration for water runoff from the Route 287 berm. According to Mr. Wu, the drainage is away from Route 287 and there will be two (2) catch basins in front of the property. Mr. Lemos states that currently the water runs down the berm. There is water in the basement. Left of the driveway is low and flooded There is a retention basin and stream behind the property and across the street a culvert. Per Mr. Wu it is not in a flood zone.

Mr. Gast questions if the property has been cleared. Mr. Doczi states that he was told by Mr. Bressler to leave the foundation of the house. Since the house is demolished the sump pump is not working and its open so whatever water falls it stays there.

Chairman Leonardis asked if the proposed townhouses have basements.... yes. He asks if he knows where the water table is... no witness knows. Vice Chairman requests Mr. Doczi to reiterate why he was stopped during the demolition. Mr. Doczi states he was not stopped during demolishing, but was told by Mr. Bressler to leave the footprint of the house so the Board can see where the house was. He states that when the house was being demolished the drawings, survey and permits were being completed and submitted. That's when they found out it's an OPA-1.

Chairman Leonardis asks why they looked into the owner of lot 8. Mr. Doczi states that they were hoping to make it into a bigger property for the townhouses. Originally they thought the property belonged to the lot in question. The Architect nor Planner did not consider what could be built if the Association decides to sell the property. Mr. Zieden did not look into anything other than a two (2) family townhouse because his client told him that's what he wanted. If the other lot is purchased and merged there is enough room for an additional townhouse making it a total of three (3) townhouse units. Mr. Gast questions Mr. Peters in his opinion if the other lot is purchased is a commercial building less feasible than a residential. Mr. Peters

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states that looking at what is present in this meeting that a third unit would be more beneficial than a larger commercial building.

Chairman asked if the apartment complex has a pool... no pool.

Nick Dickerson questions if the current lot size is conforming to an OPA-1. Per Mr. Peters, the depth is short but the lot area is conforming.

Mr. Dickerson confirms with Mr. Peters that since this is a dead end street that the location is not good for businesses that need to have traffic to be noticed. However, if there were businesses such as insurance carriers, real estate, advertising, employment agency would be a suitable business where an appointment would be made – destination... yes.

Chairman Leonardis questions why limit a possible office building to two (2) floors - approximately 4,000 square feet to three (3) or four (4) floors – approximately 6,000 – 8,000 square feet. He states that the Board is getting applications for homes to be converted into dental labs, insurance carriers, photo labs etc. There is a large need for destination type businesses that require minimal parking needed. Per Mr. Zieden, ADA codes require elevators which are costly -- upwards of \$70,000.

Chairman Leonardis states that McDonald's paid \$1,500,000 to realign the intersection so the area can operate efficiently and safely in an OPA-1 zone. There was a reason why the AH-1 is on one side of the street and OPA-1 is on the other. Only has heard about the cost but cost does not play into the decision. He has not heard an overwhelming testimony to put a two (2) family home. Previously the house was in the woods. No one knew what was going on in this house in the woods. Not convinced that a residential house is the right thing nor enough work has been done to determine why a small business condominium wouldn't work.

Mr. Dickerson asks what is it about this site is that makes it desirable for a residential use with Route 287, high intensive commercial uses, McDonald's, and gas station. Mr. Peters states that it's a dead end. Mr. Lemos states that the noise and pollution from Route 287 is not desirable.

Mr. Gustafson states that when Quick Chek came to the Board, they desired to keep the residential properties. It was not allowed. They removed three (3) homes for one (1) use. It was non-confirming in an existing zone. Their argument was the same -- it will off-set the economics.

Mr. Lemos states why not put parking underneath the building... have a three (3) story building... 2,000 square foot – two (2) stories... Twenty (20) parking spots with an aisle. Variances for parking spaces can be granted. Parking is usually in the setbacks.

Mr. Gast would like to refrain from a vote. He would like the opportunity to talk with the professionals and the owner to determine if the application should be reconsidered.

Mr. Lavender will contact Mr. Bressler as to what date to continue.

Mr. Lavender states that the notices will carry if the same application will continue to be heard. If a new application is to be submitted new notices will need to be given.

Mrs. Campagna states that if the owner chooses to continue with this application to address Dr. Temple's comments about drainage, emissions, and noise. That it is unusual for the owner not to be present. Who is the owner of Core ITS LLC? What does the business name stand for? According to Mr. Doczi it's just a name the owner came up with and the owner is Venkataramana Mannam.

INFORMAL HEARINGS: None

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OLD BUSINESS: None

NEW BUSINESS: None

CORRESPONDANCE: None

EXECUTIVE SESSION: None

ADJOURMENT: 8:40 PM.

Respectfully Submitted,
Joanne Broderick
Recording Secretary