

BOROUGH OF SOUTH PLAINFIELD
ZONING BOARD OF ADJUSTMENT MINUTES
October 18, 2016

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 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
David Miglis, Vice Chairman
Ken Bonanno
Maria Campagna
Cindy Eichler
James Gustafson
Robert Hughes
Frank Lemos, 1st Alternate
Darlene Cullen, 2nd Alternate**

Absent:

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

MINUTES: October 4, 2016

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

RESOLUTIONS: (3)

**A. Case # 14-16 -- Sharon Vastano
Block 222: Lot 9: R-15 Zone
3165 Clark Lane**

Mrs. Campagna made motion, seconded by Mr. Bonanno, to accept the above stated Resolution. Those in Favor: Mr. Bonanno; Mrs. Campagna; Mrs. Cullen; Mrs. Eichler; Mr. Hughes; Mr. Lemos and Chairman Leonardis.

**B. Case # 10-16 -- GMP Contracting LLC
Block 297: Lot 4: M-3 Zone
2240 South Clinton Avenue**

Mrs. Campagna made motion, seconded by Mr. Lemos, to accept the above stated Resolution. Those in Favor: Mr. Bonanno; Mrs. Campagna; Mrs. Cullen; Mrs. Eichler; Mr. Hughes; Mr. Lemos and Chairman Leonardis.

**C. Case # 13-16 -- Bett-A-Way Beverage Distributors Inc.
Block 308: Lot 35.02 & 36: M-3 Zone
110 Sylvania Place**

Mr. Gustafson made motion, seconded by Mr. Lemos, to accept the above stated Resolution. Those in Favor: Mr. Bonanno; Mrs. Campagna; Mrs. Cullen; Mrs. Eichler; Mr. Gustafson; Mr. Lemos; Vice Chairman Miglis and Chairman Leonardis.

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HEARING: (1)

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

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

Chairman Leonardis reads a letter from Walter K. Abrams, Esq – attorney for the applicant – dated October 13, 2016. Mr. Abrams is requesting to have the hearing adjourned and carried to the next meeting on Tuesday, November 22, 2016. The Board agrees to the adjournment and notices will carry to Tuesday, November 22, 2016 meeting.

**B. Case #17-16 -- 150 Durham Realty LLC
Block 541: Lot 13: OPA-1 Zone
150 Durham Avenue**

The applicant is requesting Preliminary and Final Site Plan with Use Variance.

Mr. Lavender has reviewed the Affidavit and Notice of Publication. The Board has jurisdiction.

Vice Chairman Miglis abstains from hearing this case.

James F. Clarkin, III, Esq – Clarkin & Vignuola, PC – attorney for the applicant addresses the Board. This is an application for a use variance to permit the sale of pre-owned automobiles, pick-up trucks and SUV's... No large trucks. The vehicle inventory will be medium to high end. He anticipates a first-class operation. The applicant understands that esthetics is very important since Hamilton Boulevard (Durham Avenue) is one (1) of the two (2) main Gateways into South Plainfield. There are two (2) photos which will be addressed - how the property looks today and what it will look like if the application is favorable. Vehicles will be stored both indoors and outdoors. The existing showroom building will house approximately thirty (30) vehicles. More than half of the inventory will be out of site. An additional twenty (20) vehicles will be stored outdoors behind the building in a gravel area. Members of the public will not be able to see the vehicles behind the building. An asphalt display area in front of the building along Durham Avenue to display five (5) vehicles. Those five (5) vehicles will blend in with the shopping center next door parked vehicles. The property is currently vacant. It was last used as a truck tire sales and service facility. In 1994, this Board granted a use variance as a public garage. Mrs. Campagna is the only current member on the Board at that time. There will be no more than four (4) employees on site. The inventory will be approximately fifty (50) vehicles... thirty (30) will be stored indoors. The trip generations that is in the Dolan & Dean traffic letter is very light. The morning peak hours is twelve (12) ... the evening peak hours is sixteen (16) ... on Saturday is twenty-four (24). Deliveries will be minimal... FedEx and UPS types of trucks. In the Borough Planners report, it states that it is a traffic safety concern along Hamilton Boulevard (Durham Avenue) in this area. There is increasing number of trucks that go up and down this area. Will accept as a condition on a hopeful approval of no selling of large trucks. No bulk variances are needed. Both the lot and structure meet all requirements. There are a confirming number of parking spaces. Besides the use variance, there is a need for a variance to display five (5) vehicles in the front yard and a free-standing sign. With reference to the five (5) cars being displayed in the front... the ordinance was designed to eliminate pallets of soda, antifreeze etc. - Items that are unsightly. This is different from having five (5) pristine late model cars. Three (3) witnesses... Nicholas Lemmo – the principal of the applicant; Bob Gazzale, PE, PLS – the engineer who will discuss the plans; and Richard Lapinski – the planner who will justify the variances.

Nicholas Lemmo – 134 Geary Drive, South Plainfield, New Jersey – the applicant is sworn in. He is the sole principle for 150 Durham Realty, LLC. He is a tenant of the property. The business will operate under the name North East Group LLC... Which Mr. Lemmo controls. Exhibit A1 – current condition of the property and Exhibit A2 – enhanced version of the property. Mr. Lemmo states he took the two (2) pictures... Exhibit A1 was taken approximately a year ago and Exhibit A2 was taken approximately a month ago. The business will have middle to high end vehicles and will limit the amount to fifty (50) at any one (1) time... cars, pickup trucks and SUV's. No trucks. The price range for the vehicles will be from \$15,000 to \$50,000 or more. No damaged vehicles. The vehicles will be serviced at an outside shop prior to coming to the site. Majority of the vehicles will still be under manufacturers warranty. Those vehicles will be brought to a dealership for service. Then returned for resale. No repair work, no vehicle maintenance, no lifts and no washing of

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vehicles onsite. Hours of operation will be 9 am to 9 pm Monday through Saturday. No Sundays – Cannot operate a car facility on a Sunday. Has a contract with the tenant of a building he owns on New Market Avenue that will do all the washing and detailing. Four (4) employees at any one (1) time. The vehicles will be man driven to the site from auction with dealer plates. If multiple vehicles are purchased, will come in a flat bed. Absolutely no car carriers. The only deliveries that are anticipated are from FedEx and UPS several times a week. A traffic study was done by Dolan & Dean. Mr. Lemmo anticipates eight (8) to ten (10) vehicles sold a week. This use will not create any excessive noise. No water pollution, no glare, no safety hazards. Trash and recycling receptacles will be in the offices, then they will be blended and put outside for pickup. No dumpster or enclosures. Will provide a recycling plan to Dr. Tempel if application is approved. Provided Mr. Abbruzzese – Borough Fire Marshal - with all fire alarm testing of the fire alarm and sprinkler system. Mr. Abbruzzese requested that the brush and trees around the fire hub to be removed, which Mr. Lemmo has already completed.

Chairman Leonardis questions Mr. Lemmo. Mr. Lemmo does not own the property. Has a signed lease. Mr. Lemmo's intension is to have the existing building blend in with the mall next door. The four (4) employees will be: two (2) sales personal, a manager, a closer and himself.

Mrs. Campagna asks Mr. Lemmo where he is getting the vehicles from. Mr. Lemmo states that he has agreements with several dealerships and auctions. Dealership vehicles are vehicles that are coming off Lease. There are three (3) or four (4) auctions within two (2) states that he can purchase from. Will purchase two (2) to four (4) vehicles at an auction and will have runners drive the vehicles to the facility. Mrs. Campagna requests an explanation on how the dealer plates work. Mr. Lemmo states that he has five (5) sets of dealer plates issued by New Jersey Division of Motor Vehicle. The vehicles are under the business insurance. The vehicles can only be moved with the dealer plates on them. If a customer wants to test ride a vehicle, they put one (1) set of the dealer plates onto the vehicle. The dealer plates, registration and insurance are held by North East Auto Group, LLC. and can be used on any vehicle they own. They are an approved dealership with Division of Motor Vehicle.

Mr. Gustafson questions Mr. Lemmo with regards to the Exhibit A2 – enhanced photo – flag pole, sign and landscape. Mr. Lemmo states that he would like a flag pole as large as possible and will keep the landscaping as pristine as possible.

Mrs. Campagna asks if Mr. Lemmo has ever been in the car dealership business. Mr. Lemmo states no, but is in his second year of vehicle wholesale. The people who he will be working with have twenty-five (25) plus years in the business.

Mr. Bucco asked if they will comply with the Environmental Commissions review letter of September 13, 2016. Mr. Clarkin states not in full. They will handle the clean-up, the broken pavement, the landscaping, will store trash inside the building, will give a recycling plan narrative, and no idling signs. The only other item is the drainage system which needs to be discussed. Dr. Tempel does not request an Environmental Impact Statement.

Mrs. Campagna questions - if there are thirty (30) vehicles inside and twenty (20) vehicles outside, what are you going to show me? Mr. Lemmo states all the vehicles. A warehouse with clean floors and painted walls. No frills. Vehicles will be sold for a significate lower price because their cost will be low. Cars may have to be moved around. The warehouse will be their showroom.

Mrs. Cullen asks Mr. Lemmo if someone comes in and is looking for a particular vehicle, is he able to locate that vehicle through auction or dealership? Mr. Lemmo states absolutely.

Chairman Leonardis ask other than the sign, what kind of advertising will they have – as far as signage? Mr. Lemmo states nothing on the building. The sign is more than enough. Possible prices on the vehicles. Mr. Clarkin states they will accept no flags or banners as a condition.

Mr. Bonanno asks if the cars behind the building are in a gated area. Mr. Lemmo states no. Mr. Clarkin states that those vehicles are screened by the building from the public. However, they will be visible from the mall parking lot.

Mrs. Campagna asks if Mr. Lemmo will be taking in trade-ins? He states he will take trade-ins but it would have to be desirable to them for either re-sale or for auction. It would have to be at their standards. If something comes in that's old, it will be at the auction within two (2) to three (3) days.

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Mrs. Eichler asks if they would purchase vehicles from a place on Route 22? Mr. Lemmo states that probably, if its right for them. Mr. Lemmo reiterates, if the vehicle is not desirable for their lot, it will go into wholesale for auction.

Chairman Leonardis asks if they would recommend or purpose a recommendation for the vehicles that come in as trade-in and not to turn the place into a 'junk yard'. Mr. Clarkin suggest since Mr. Lemmo does have another property in town that all vehicles that are taken in will be brought to that location first to be evaluated.

Mr. Lemmo states that his facility will be fully camera... inside and out. It will be live.

Robert Gazzale, PE, PLS – Fisk Associates – 631 Union Avenue, Middlesex, New Jersey. Engineer for over twenty-five (25) years. Has been before this Board previously. Has testified between fifty (50) and hundred (100) boards. He is sworn in and accepted as a Professional Engineer. Mr. Gazzale addresses the Board.

- The property is 150 Durham Avenue. Lot 13 Block 541.
- Located at the north-west quadrant of Durham and Texas Avenue.
- Contains forty thousand twenty (40,020) square feet.
- Located in the OPA-1 zone.
- Has one thousand three hundred sixty (1,360) square foot - one (1) story masonry building.
- Adjourning four thousand eight hundred (4,800) square foot steel building.
- Asphalt parking lot – north of the existing building. Parking lot is in need of repair.
- Back half of the building drains to the ditch along Texas Avenue. The front portion of the property drains out to Durham Avenue.
- Served by public utilities except sanitary sewer. Sanitary sewer does not exist on the site. There is a holding tank installed which is serviced on an as need basis. Has approval from Health Department.
- Applicant proposes to reconstruct the existing parking lot. Will mill and repave.
- Entrance way would be curved up to the front lines of the parking area.
- Handicap stripes in front of the one (1) story masonry building that do not meet with ADA requirements will be updated to meet the requirements. Signage, if needed, will be updated.
- Two (2) asphalt areas in the front will be added to show a total of five (5) cars.
- Parking lot will be restriped for twenty-two (22) spaces.
- The south west corner, one thousand seven hundred (1,700) square feet of stone will be removed. Impervious coverage will decrease.
- One (1) inlet in the parking lot, center to the one (1) story steel building. The parking lot and roof leaders are tied into the inlet.
- Drywell has one (1) over flow pipe that drains into the ditch by Texas Avenue. Mr. Lemmo and the prior owner have stated they have never seen water in the parking lot. Therefore, it appears the drywell is working properly.
- The broken roof leaders will be repaired.
- No façade sign.
- Sign to be placed on the existing sign pole.
- Flag pole is proposed.
- Landscaping along the front of Durham Avenue and along the edge of parking lot.
- Illuminate the parking lot with two (2) lamps mounted on the utility poles on Durham Avenue. The use to the north and west is the mall. Therefore, the lights will not affect any neighbors.
- Utilities are in place. No extension required.
- No dumpster enclosure.

Mr. Clarkin continues with Mr. Gazzale - using the Najarian Associates Completeness and Engineering review letter dated September 19, 2016.

Starting on page 4 - Site Plan Check List:

- Items 6, 7, 8 & 13 - will be added to the plan.
- Item 9 & 15 - Testimony given.
- Item 10 - has been determined there are twenty-two (22) parking spaces.
- Item 11 & 12 - Mr. Clarkin will handle with testimony.
- Item 14 - If approved, Mr. Lemmo has agreed to provide a narrative recycling plan.
- Item 16 - will be included as a condition.
- Item 17 & 18 - Mr. Clarkin states they are requesting waivers.

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Page 5 - (E) Off-Site and Off-Tract Improvements.

- Item 1 - Will be added to the plan.
- Item 2 - Mr. Clarkin states they would pave the roadway in front of the site up to the center line.
 - Mr. Bucco states he had a conversation with Mr. Miller, Borough Engineer. He had an understanding that Mr. Miller spoke with the owner and was planning to pave curb to curb.
 - Mr. Lemmo states he had a discussion with Mr. Miller. Mr. Lemmo states legally he had to pave the portion of the road in front of his site. He stated that Mr. Miller stated that the Board would want the entire roadway paved (curb to curb) in front of the site but did not commit to it.
 - Mrs. Campagna asks how long the depressed curb will be. Mr. Gazzale states twenty-eight (28) linear feet which exists today.

Page 5 - (F) Site Requirements/Layout.

- Item 1 - Not applicable. No trash enclosure on site.
- Item 2 & 3 - Agreed and will add to the plans.
- Item 4 - If approved, would add as a condition.

Page 5 - (G) Grading/Drainage.

- Item 1 - Has been confirmed.
- Item 2 - Will comply.
- Item 3 - Will be updated and connected.

Page 5 - (H) Traffic

- Item 1 - Submitted traffic report dated August 31, 2016 by Dolan & Dean. Mr. Bucco is satisfied.
- Item 2 - Traffic Safety Committee has a concern with left turns into the business. Mr. Clarkin states there are more intense businesses that allow left turns. The traffic signal not far from the site will give gaps in traffic.
 - Mr. Gustafson states the Lt DeLair is concerned with the left turn out of the site... Mr. Clarkin was stating the left turn into the site. It is clarified as left turn out of the site. Mr. Gazzale states that there are businesses in the area that do not have any restrictions on left turn out.
 - Mrs. Eichler states that those who leave the mall are unable to make the left turn out. The curb directs them to the right. There is a sign for no left turns.
 - Chairman Leonardis states he is acceptable with the left turn into the site but is concerned with the left turn out. It's a two (2) lane road. Vehicles coming off the overpass, side by side, trucks etc. there is an opportunity for people not to be able to see the vehicle in the second lane.

Page 6 - (I) Environmental

- Item 1 - Requested a waiver. Dr. Tempel did not request one in her report.

Page 6 - (J) Landscaping/Lighting

- Item 1 & 2 - Addressed previously.
- Item 3 - Statement.
- Item 4 - Mr. Clarkin states that Dr. Tempel's report states that the landscaping is adequate.

Page 6 - (K) Utilities

- Item 1 - As a condition, Mr. Clarkin states they agree to add the utilities onto the plans.

Page 6 - (L) Miscellaneous

- Item 1 – 5 - Applicant agrees to all.

Chairman Leonardis would like more detailed explanation of lighting and security. Mr. Gazzale states they will have spotlights mounted by PSE&G. They will provide adequate lamination. There is additional lighting along the access to the mall and back of the building. Mr. Gazzale re-iterates that Mr. Lemmo stated earlier that he will have cameras. Mr. Bucco states that the lighting plan does show adequate lighting.

Mr. Gustafson would like a clarification of the landscaping between the driveway to the mall and the parking area for the site. Mr. Gazzale states that it's a lawn area and the trees are not on their property. There is no curbing from the property line to the parking lot. It is grass. Mr. Clarkin states there will be a sprinkler system. After some discussion, Mr. Lemmo agrees to decorative stone between the parking lot and entrance of the mall instead of grass.

Mr. Slachetka asks how many vehicles will be stored in the back of the building. Mr. Gazzale states approximately twenty (20) and those vehicles will be double stacked. How many vehicles will be on the property. Mr. Gazzale states fifty (50) for inventory, employees and customers... maximum of seventy-two (72) vehicles. Thirty (30) will be inside.

Chairman Leonardis asks will those vehicles for sale be parked in the proposed striped area? Mr. Clarkin states no... only for a test drive.

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Mr. Bucco suggests that bumper blocks should be installed at the end of the spaces along the mall entrance where there are no curbs. Mr. Lemmo agrees.

Richard Lapinski - 554 Compton Avenue, Perth Amboy, New Jersey – is sworn in and is excepted as a Professional Planner. Mr. Lapinski addresses the Board.

- Approximately, forty thousand (40,000) square foot lot with an existing building to be used as sale of used vehicles
- Approximately, two hundred (200) feet of frontage on Durham Avenue.
- OPA-1 zone.
- Free standing sign of sixty (60) square feet... Seventeen (17) feet in height... Twenty-one (21) feet setback from the right-a-way.
- Currently vacant.
- Several variances are required:
 - D1 – Use Variance – sale of used vehicles. Zoning history – 1994 approval permitting public garage. Turned into truck repair and truck tire repair.
 - Sign Variance - Free standing sign exceeds the permitted sign regulation:
 - Permitted - Thirty-two (32) square foot sign per side – six (6) feet high.
 - Proposing – Sixty (60) square feet per side – seventeen (17) feet high.
 - Front Yard Storage Variance - Five (5) vehicles parked in the front yard for display.
- Oddly shaped parcel on west side of Durham Avenue between the unimproved Texas Avenue and commercial shopping center.
- Property relatively flat.
- Steel building – approximately four thousand eight hundred (4,800) square feet.
- Smaller masonry building – approximately one thousand four hundred (1,400) square feet.
- Set back of fifty-three (53) feet from Durham Avenue.
- Buildings are left of center on property.
- Nearby uses include: retail shopping center, gasoline service station with automotive repair, McDonalds, Quick Chek, branch bank.
- Indoor storage and the storage behind the building out of the public view.
- All properties developed in the area.
- House which is non-confirming has a buffer from the business with the unimproved Texas Avenue.
- Minimum traffic generated.
- Less intense use then previously approved.

Justification for the variances.

- Eliminating a use permitted by variance.
- Area designation 2006 re-examination of the Master Plan labels the area as a Gateway – Zoning from industrial to commercial emphasis.
- Lower impact use.
- Minimal site plan work for the use.
- Free standing sign - In keeping with the signage in the area.
- No façade sign proposed.
- Only sign.
- Front Yard Storage – Display of vehicles to be seen.

Mr. Slachetka asks Mr. Lapinski how is this car sales use different from other car sales. Mr. Lapinski states that he cannot compare it to any other use car lots in the area since it is not in the ordinance. However, majority of used car lots over crowd the lot not allowing easy movement of vehicles. Luxury and high end cars will be sold. Most of the vehicle will be stored inside.

Mr. Slachetka states that it should be stated in the resolution that this particular use should be limited. Not as a broad use. The next owner / operator may not operate the site in the same way. The Board agrees.

Chairman Leonardis asks if the site will be gated or chained during after-hours? Mr. Lemmo states that he was under the impression that the Board does not want any type of locked gate on Durham Avenue. Mr. Gustafson asks if he would like to do so. Mr. Lemmo states he would like to do so for security purposes. Mr. Gustafson suggests that in the

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future if security becomes an issue would Mr. Lemmo like to have the option to do so. Mr. Lemmo is open to the suggestion. Mr. Bucco states that he would like that noted on the plan as a future option. Mr. Lemmo wants to clarify with the Board that if security is an issue, he may put up the gate without coming back to the Board. The Board agrees to a decorative ornamental gate across the width of the drive way.

Chairman Leonardis addresses the left turn out of the site. Exhibit A2 shows the vehicles out front having bumpers only two (2) to three (3) feet from the curbing. However, the drawings show different. Mr. Gazzale states there are more than ten (10) feet between the bumpers of the cars to the curb line.

Mr. Clarkin addresses the paving of Durham Avenue. He believes they are only required to pave in front of the property, not the whole width of the road.

Chairman Leonardis calls for a five (5) minute recess.

Chairman Leonardis call the meeting back to order.

Mrs. Cullen states that the Board is not comfortable with the left turn out of the site. Mr. Clarkin suggest to restrict the left turn out - no left turns from 7 am to 9 am and 4 pm to 6 pm Monday through Friday with Title 39 enforcement. The Board agrees.

Mr. Clarkin states that in lieu of paving curb to curb, the applicant will make a \$15,000 contribution to the town towards paving plus the cost of paving from curb to center line. In addition, Mr. Lemmo will add a sidewalk. The sidewalk will go across the front of the property along Durham Avenue.

Mr. Gustafson states now that the street will not be paved, how does that affect the apron of the driveway? It is in disrepair. Mr. Gazzale states that is part of the proposed improvements. Chairman Leonardis states that from the outside of the curb towards the street will not be paved... inside of the curb towards the building will be paved.

Mr. Bucco suggests since the sidewalk will be concrete across the driveway, the apron should be concrete. Mr. Lemmo agrees.

For clarification, Chairman Leonardis states the majority of the water flows into the drywell.

Chairman Leonardis requests a review of what will be voted upon. Mr. Clarkin states the use variance, the variance for the sign and the storage of cars in the front yard.

Chairman Leonardis reviews the conditions. Curbs, sidewalk, paving, compliance with staff reports, no damaged vehicles, no repairs, no washing, no car carriers, no flags or banners, no more than fifty (50) vehicles.

With no further questions from the Board or audience, Chairman Leonardis calls to vote. Mr. Gustafson made motion, seconded by Mrs. Eichler. Those in Favor: Mr. Bonanno; Mrs. Campagna; Mrs. Cullen; Mrs. Eichler; Mr. Gustafson; Mr. Hughes; Mr. Lemos and Chairman Leonardis. Those Oppose: None

INFORMAL HEARINGS: None

OLD BUSINESS: None

NEW BUSINESS: None

CORRESPONDANCE: None

EXECUTIVE SESSION: None

ADJOURMENT: 8:58 PM

Respectfully Submitted,
Joanne Broderick
Recording Secretary