

BOROUGH OF SOUTH PLAINFIELD
ZONING BOARD OF ADJUSTMENT MINUTES
February 7, 2023

Chairman Leonardis opened the meeting at 7:00 pm.

Please stand for the PLEDGE OF ALLEGIANCE.

This meeting was held in accordance with the Open Public Meeting Act and as such, proper notice of this meeting was published in The Observer, The Courier News and The Star Ledger providing the 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:

Kenneth Bonnano
Cindy Eichler
Frank Lemos
Scott Miller, 2nd Alternate
April Wasnick
Gino Leonardis, Chairman

Absent:

Darlene Cullen, 2nd Alternate
Joseph Scrudato, 1st Alternate
James Gustafson

Also in attendance: Matt Flynn, Esq., Robert Bucco, Raymond Savacool

MINUTES:

Chairman Leonardis calls for a motion of the meeting minutes of May 17, 2022 – Motion: Ms. Wasnick Second: Mr. Bonnano. Unanimously approved.

Chairman Leonardis calls for a motion of the meeting minutes of August 30, 2022 - Motion: Ms. Eichler Second: Ms. Bonnano. Unanimously approved.

RESOLUTIONS:

Chairman Leonardis calls for a motion for the approval of the resolution for Case #07-22 – Fredrick Landgraber, Block 307: Lot 6: M-3 Zone, 1521 Sage Street.

Motion: Ms. Eichler Second: Ms. Wasnick

Vote on memorialization: Mr. Leonardis, Mr. Bonnano, Ms. Eichler, Mr. Lemos, Ms. Wasnick.

Chairman Leonardis calls for a motion for the approval of the resolution **Case #13-22 – New Image Landscaping, Block 535: Lot 10.01: M-1 Zone, 2801 Hamilton Boulevard.**

Motion: Ms. Eichler Second: Ms. Wasnick

Vote on memorialization: Mr. Leonardis, Mr. Bonnano, Ms. Eichler, Mr. Lemos, Ms. Wasnick.

HEARINGS:

**Case #01-23 Allison Teller
Block 196: Lot 11: R-7.5 Zone
129 Lee Place**

The applicant is requesting a *front and side yard variance* for an add a level addition.

Front Yard: Required: 30' Existing: 24.8' Requested: 7.2'

Side Yard: Required: 8' Existing: 4.8' Requested: 3.2'

The applicant, Ms. Allison Teller, and her father, Paul Gorman, appeared before the Board to discuss the required variances and proposal. Ms. Teller stated that she was before the Board due to a proposal to construct a second-story addition to the existing dwelling on the property. The property is presently deficient as to required front-yard setback and north side-yard setback. The applicant and Mr. Gorman explained that the proposed addition would be constructed on top of the existing dwelling and would cantilever two feet out in the front, further exacerbating the existing nonconforming 24.8ft. front-yard setback, resulting in a total setback deviation of 7.2ft. Presently existing on the property is a deficient side-yard setback of 4.8 feet to the north, where the addition is also to be constructed. Ms. Teller and Mr.

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Gorman testified that the addition to the Cape-Cod style home would include three bedrooms, a bathroom, and a small fourth room. The height of the addition will be approximately twelve feet. The first floor of the dwelling will be reconfigured, with a wall to be removed and the two existing bedrooms to be converted to a dining room and an office, respectively. This will also result in the staircase being moved. The applicant confirmed that the front porch will remain and that there are no proposed changes to the side of the home. Ms. Teller agreed to ensure that any windows on the side of the addition with the deficient side-yard setback will be above eye level to avoid peering into the home of the side-yard neighbor. Ms. Teller also agreed that the proposed improvements would be aesthetically pleasing and improve the character of the surrounding neighborhood, with the siding to match the existing home. The final condition agreed upon was that. The proposed attic shall be accessed by a pull-down staircase and shall not be converted to living space. Chairman Leonardis calls for a motion of approval. Motion: Ms. Eichler Second: Mr. Lemos
Vote on application: Mr. Leonardis, Mr. Bonnano, Ms. Eichler, Mr. Lemos, Ms. Wasnick.

**Case #24-22 A-Tech Landscaping Design Inc.
Block 294: Lot 1&2: M-3 Zone
1525 & 1519 New Market Avenue**

The applicant is requesting to consolidate Lots 1 & 2 in Block 294 into a single lot to be used as a new 3,600 square feet contractor's office, shop building and a landscaping storage yard for a landscaping business.

Kevin H. Morse, Esq., attorney for the applicant. Jon Dean, property owner and applicant, was duly sworn according to law. The Board accepted his credentials as the principal of the applicant corporation. Mr. Dean stated that the applicant is in a landscaping and snow removal business. Mr. Dean previously testified during the 2016 application in which a nonconforming house on Lot 1 located in an industrial zone was demolished to allow for the landscape company's daily operations. The applicant was seeking to add the recently acquired Lot 2 to the adjacent property. The applicant would remove the existing nonconforming single-family dwelling on the property. Mr. Dean stated that the intent of the application was to construct a new building which will include office space and a service area for the business.

Mr. Dean stated that the property across the street located at 1910 Roosevelt Avenue was being utilized as office space and vehicle parking for the applicant. It has since been sold. The applicant's lease is expiring, and the applicant is seeking to move the remainder of their operations to the new site across the street. Mr. Dean indicated that equipment on site for storage will continue to be backhoes, construction vehicles, front-end loaders, salt trucks, and some storage containers. There are a total of twelve (12) trucks and four (4) trailers. The hours of operation would remain from 7 a.m. to 6 p.m. Monday through Friday, and there will be 28 employees. The employees predominantly use commercial vehicles or carpool to work. Addressing the parking needs, Mr. Dean detailed that the applicant will provide six (6) parking spaces. Typically, only one space will be used for the office worker. There are usually only three (3) people on site during the workday; everyone else is on the job site. The site will not have a retail component to it.

Mr. Dean stated that the proposed new building will be a prefabricated steel structure. The building will be used for clerical needs and the service area will be used for repairs and routine maintenance on the vehicles. Currently, any fluid such as oil is properly stored in drums and a company comes to pump it out and recycle it. Mr. Dean testified that the applicant is considering using a waste oil heating system that would recycle the oil to be utilized on site. Addressing the trash and recycling, Mr. Dean testified that the applicant has a contract with Pinto Services for a biweekly pick up. Mr. Dean agreed to submit a recycling plan for review. Mr. Dean testified that the storage bins on site were used to hold materials from job sites. The materials would either be recycled or used throughout the site. The storage bins do not hold new material. Mr. Dean stated that the deliveries to the site were for maintenance parts for vehicles and equipment. There will be some deliveries of office supplies. The frequency of deliveries for auto parts was one to two times a day depending on what breaks down. The office supply delivery is typically once a month. There are no deliveries by box truck or tractor trailer. Mr. Dean testified that since 2016, there have not been any traffic issues or parking issues with the neighboring properties which allowed the applicant to acquire Lot 2. Upon question of Chairman Leonardis, Mr. Dean testified that the business and applicant is owned by himself and Mr. Vincent Butrico. Lot 1 is owned by one real estate company and Lot 2 is owned by another real estate company. If approved the ownership of Lot 1 and Lot 2 would be consolidated to one LLC.

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M. Morse called Steven Parker, P.E., to present engineering testimony, who was sworn in and the Board accepted his credentials in the field of engineering. Mr. Parker provided an overview of the site. He stated that the property consists of two separate tax lots and both lots had houses on them. The house on Lot 1 has already been removed. The property has frontage on Roosevelt Avenue, New Market Ave., and Aster Street. The applicant proposed to remove the remaining house on Lot 2 and construct a new shop building with office space expanding operations throughout the entire property. The operations will include an area to prepare and perform repairs on their own equipment. Mr. Parker continued his testimony that the applicant will make improvements to the overall site by installing curbing along Roosevelt Ave. or Aster Street. Landscaping will be part of the improvements. Mr. Parker testified that there would be no substantial changes to the way the property is currently being used and the daily operations would continue in a similar fashion. The applicant proposed on-site parking.

Mr. Parker testified that the drainage presently flowed towards New Market Avenue and Roosevelt Avenue and there is an existing storm water collection system that picks up the runoff. The applicant was not proposing any changes to the existing system. Mr. Parker opined that the increase to the runoff because of the increased amount of impervious would be minimal; therefore, the applicant was requesting a waiver from providing any storm water detention on the property. Upon some questions from the Board Members, Mr. Parker explained the scope of work to be done on the property. He testified that the house on Lot 2 would be demolished. The applicant proposed to put up a vinyl fence on the Aster Street side of the property. On the New Market side of Roosevelt Avenue, there would be a small parking area with an ADA parking ramp. The vinyl fence around the site is proposed at 10 ft. high along the perimeter of the property with a portion of the vinyl fence fronting on Aster at 6 ft. high. Mr. Parker testified that the building would be an insulated metal building on a slab with no basement. Mr. Parker testified that the position of the building will be just over 29 feet away from the property line triggering a need for a variance. The existing home on the property is setback 29.1 and 30 ft.

Mr. Morse took Mr. Parker through Mr. Bucco's review memo dated December 22, 2022. Regarding the waiver for a traffic impact statement, Mr. Parker testified that the applicant was seeking a waiver because the nature of the operations is not really changing. The applicant is also seeking a waiver of the environmental impact statement because the proposed work was not in an industrial area with not much change on the site to merit an environmental impact statement. The applicant is also seeking waivers from the subdivision checklist because technically, the applicant was not subdividing the properties, they were proposing to consolidate the two (2) lots. Mr. Parker testified that the existing utilities, electric and cable, were overhead; therefore, the applicant was proposing to continue the utilities connections as is to the new building. The sewer connection for the new building would be to the existing sewer on Aster Street. The gas line for the new building would also tie into the existing gas line.

Mr. Parker testified that the lighting on the new building would be mounted lights for safety and security. There would be security lighting just around the doors of the building. The site typically does not operate in the dark except during the winter months when someone might be working late. The applicant agreed to providing the Board with details of the cutoff of the flood lights. Mr. Parker testified that the roof leaders would be directed into a splash pad from the New Market Avenue side where the existing storm drain is located. Mr. Parker indicated that the Middlesex County Office of Health Services, the Fire Prevention Bureau of South Plainfield, and the Police Department of South Plainfield did not have any issues or comments regarding the plan. The application was submitted to the County, and Mr. Parker was waiting for a response. The applicant stipulated to acquiring any outside agency approvals as necessary in connection with the proposed work should the Board find in favor of the application. The applicant agreed to using concrete with a PSI of 4500.

Further, the applicant stipulated to items 16, 17, and 18 from Mr. Bucco's review memo that if the application were to be approved, the applicant would provide an engineer's estimate of costs for the proposed improvements for review, submit performance guarantees and engineering inspection fees, and provide an as-built drawing of final construction with all revisions and corrections for review and approval. The applicant agreed to comply with the site walk comments except for Item #3 to perform half-width paving and restoration along Roosevelt and Aster Street including base repairs as needed for the southwest corner of the site, north-most portion of Roosevelt Avenue intersection, and over the ramp. Mr. Parker did not agree that the applicant had to complete half-width restoration of the entire street in that area. The applicant requested a waiver for providing the full half width paving.

Mr. Bucco reiterated to the Chairman that the Borough required the curb restoration on applications similar to the instant matter, since the road is currently in disrepair. As to the turning template requested on page 7, Item K, number 2, Mr. Parker reiterated that the site operates and works for the applicant in its present condition.

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The applicant is expanding the same template presently being used. The applicant does not propose any changes to the equipment used or the way that equipment is used. As to the power coming from overhead, the applicant stipulated to move all power underground.

On question of Mr. Flynn, Mr. Dean explained that the Borough repaved the whole intersection that was in disrepair at New Market and Roosevelt over the summer. Mr. Dean stated they should only be responsible for installing the curb line, since the road was already in good condition. Based on Mr. Bucco's suggestion for the roadway and Aster, the applicant agreed to half-width reconstruction based on the review and approval of the Borough Engineer and Borough's consultant. Mr. Morse took Mr. Parker through the T and M Associates memo, dated January 31, 2023. Regarding the accessory structure bins located on Lot 1, Mr. Parker stated that the bins would be moved to the same position on Lot 2, and the bins were not changing.

Mr. Morse explained that in the spirit of the application, the applicant needed to provide three (3) parking spaces and would be providing six (6) parking spaces because the service workers park in the building, to which Mr. Dean concurred. On a typical day, only one of the spots will be used by the office operator leaving the other five (5) spaces vacant. As to the signage, the applicant stipulated to comply with the Borough regulations and would move their proposed sign from a 12 ½ ft. setback to 15 ft. setback. Board Planner Raymond Savacool asked about signage. Mr. Dean confirmed that this was the only sign, and it would have landscape lighting.

As to the landscaping on the property, the applicant was agreeable to work in good faith with the board professionals to provide a landscape plan but would give some landscape testimony if the Board wanted it. On question of Chairman Leonardis as to how the front on the New Market side would look, Mr. Dean answered that there would be a doorway on the front of the building on the New Market side with a walkway leading up to it. The building will be completely landscaped, the sign will be landscaped, the property is going to have full irrigation, and the applicant will re-sod the entire property. Further to Chairman Leonardis's questions as to why Mr. Dean's testimony did not match what was depicted on the architectural plans, Mr. Dean testified that the architect put street common plants on the plans, but the applicant will use ornamentals and plants that would be typically used around a house to make it look nice.

Chairman Leonardis and other Board members raised an issue that the architectural plans did not depict what the outside of the building along New Market would look like. The plans did not show a door or windows, nor did it depict the landscaping or façade materials of stone veneer and blue stone lintel that Mr. Dean had testified to it having. Board members agreed that the applicant should provide additional information of how the facility will look. The applicant agreed to provide the additional rendering. The applicant would continue their landscape testimony at the next meeting since the site information seemed to be driving the Board's consideration of the use variance. The applicant continued with testimony.

Mr. Morse moved on to the remainder of the T and M Associates memo concerning access to the parking spaces. Mr. Parker testified that the way the site currently operates does not generate a whole lot of activity when the employees or people are going to work, so there should not be any access issues to the parking area that is inside the fence. The next comment on the memo addressed the driveway aprons which would be concrete. As to curbing, the applicant would provide curbing around the paved area where the two (2) parking spaces will be located.

Mr. Flynn questioned whether the applicant still needed a design waiver and asked the Board Planner's opinion, to which Mr. Savacool responded that it still needed a design waiver on the interior of the site. He opined that is more appropriate in that the improvements on the interior site are bounded by a fence line. The fence provided blockage, and it would be up to the applicant to decide if they wanted wheel stops to protect the fence.

Mr. Parker continued his testimony requesting a design waiver for the location of the concrete storage bins which would be right up against the fence which is adjacent to the property line.

Mr. Flynn contended that the request for the location of the concrete bins are technically c variances because they are permanent in nature; therefore, the zoning regulations supersede the design. The variance would be for a 1.9 ft. setback.

Mr. Parker testified that the applicant would request the variance if it were needed, and then explained the nature of the bins. He opined that the bins were not permanent structures because there were no footings underneath them. The bins were concrete blocks which are two feet wide. The bins are big and heavy but

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can be moved. On the recommendation of Mr. Savacool, Mr. Parker agreed to let the plans reflect that the fence will go around the bins.

Mr. Parker moved onto the next comment which was a request for dimensions which he agreed to provide on the drawing along with a recycling plan. He would add the site triangle dimensions as well. Mr. Parker testified that the driveways will be two-way driveways proposed at 18 feet wide. The applicant was requesting a waiver for the driveway width due to the minimal use throughout the day as opposed to the driveway use at a retail site.

Mr. Flynn addressed the 2016 approval which was bifurcated. The Board granted the d(1) use variance subject to coming back for final site plan approval, but there was no indication that the applicant ever received final approval. Mr. Morse did not believe that the applicant ever received the final approval. To which, Mr. Flynn contended that the final site plan approval of the prior application would need to be rolled into this application. Same was not material to the Board's analysis because the applicant was seeking final approval in the instant matter.

The Board had no further questions for Mr. Parker.

To present planning testimony, the applicant called Angelo J. Valetutto, P.P., was duly sworn according to law. The Board accepted his credentials in the field of professional planning, found his testimony generally credible, and generally accepted his testimony as fact.

Mr. Valetutto testified that he visited the site and was familiar with both the Borough's zoning ordinance and master plan. Regarding whether the use and bulk variance approvals being sought were justified under the Municipal Land Use Law, Mr. Valetutto opined that the variances sought were justifiable. As a perspective on the proposed project, Mr. Valetutto testified that the business operates on property significantly smaller than the proposed size of the property after the consolidation of lots. He opined that the larger lot size should make the daily operations safer as well as more aesthetic with the additional submission of the landscape plans the applicant agreed to submit.

Mr. Valetutto testified that the property was in the M-3 Zone which did allow for industrial type uses more substantial than what the applicant was proposing. At the time of the 2016 approval, the single family dwelling on the property was unpermitted, and the granting of the d(1) variance by the Board allowed the applicant to utilize the property for their business. Since the prior approval, the applicant obtained ownership of Lot 2 which also has a nonconforming single-family dwelling on site. Mr. Valetutto opined that the trend in the M-3 Zone has moved primarily from residential uses which have been eliminated to the industrial uses operating on the surrounding properties.

Mr. Valetutto testified that the requisite criteria exist to justify the applicant's request for use variance approval under the positive criteria. Mr. Valetutto opined that four of the purposes of the act would be something that will be supported by the applicant's application, to encourage a municipal action to guide the appropriate use or development of all land in this state in a manner in which will promote the public health, safety, morals, and general welfare, to provide adequate light, air, and open space, to provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial, and industrial uses and open space, both public and private according to their respective environmental requirements, and in order to meet the needs of all New Jersey citizens; and to encourage the coordination of various public and private facilities, shaping land development with a view of lessening the cost of such development and to more efficient use of the land.

Mr. Valetutto opined that the site was particularly suited for business where the property is in an area that is a mixture of uses that have been functioning together for what appears to be many years. The applicant has utilized Lot 1 as an approved landscaping business which has been operational since 2016 without issues in the area. The addition of Lot 2 will not change that. He opined that the removal of the two nonconforming, single-family dwellings and the construction of the office building brought the properties more into compliance with the zone. Mr. Valetutto further opined that the new façade and landscaping will also add to the particular suitability of the proposed use.

Addressing the enhanced quality of proof, Mr. Valetutto testified that the application was not inconsistent with the master plan and zoning ordinance given that this was a very old section of the Borough. The applicant's proposed use continues to fit as it did in 2016 and is consistent with the mixed character of the neighborhood. He opined that the use would function even better with the consolidation of the lots. The 2016 approvals granted

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for Lot 1 to be used as the applicant's landscaping business have worked well as part of the neighborhood for over six years, and the acquisition of the additional property will bring the square footage of the lot more into conformity.

As to the negative criteria, Mr. Valetutto opined that relief could be granted without any substantial detriment to the public good based on the testimony of the other witnesses. The application does not present detriment to the public good and has no negative impact on any of the adjacent properties, most of which are part of the blend that the applicant's property fits within. Further, Mr. Valetutto opined that the relief could be granted without substantially impairing the intent and purpose of the zone plan and zoning ordinance since the application is consistent with the master plan.

Regarding bulk variances, Mr. Valetutto opined that the bulk variance relief sought is subsumed by the use variance request which carries the higher standard of proof. He testified that the bulk variances requested by the applicant are cognizable under the c(2) or flexible (c) analysis given the application 1) relates to a specific piece of property; 2) the purposes of the MLUL would be advanced; 3) variances can be granted without substantial detriment to the public good; 4) the benefits of the deviation would substantially outweigh any detriments; and 5) negative criteria has been satisfied.

Mr. Savacool cited the 2014 Master Plan Re-exam report that addressed landscaping yards and the aesthetics and other issues that arise from such uses. The Planning Board in the re-exam report concurred that consideration be given to designating landscaping and contractor yards as conditional uses. Although the Governing Body never changed the Ordinance, Mr. Savacool offered it as a consideration for the applicant in their enhanced plans.

The application was carried to the March 21st meeting without further notice.

Adjournment: 8:36PM

Respectfully Submitted
Stephanie Merola
Zoning Board of Adjustment Secretary