

TOWNSHIP OF SADDLE BROOK ZONING BOARD OF ADJUSTMENT

Following are the minutes of the Saddle Brook Zoning Board of Adjustment's regular session, held on Monday, April 3, 2017.

1. At 7:30 p.m., Chairman Gatto called the meeting to order.

2. **Salute to the Flag.**

3. **SWEAR IN MEMBERS**

Joseph Zottarelli was sworn in as first alternate.

Jason Sabani was sworn in as second alternate.

Valera Hascup was sworn in as third alternate.

4. **Roll Call:** Ms. Murray, Mr. Schilp, Mr. Ratajczak, Mr. Esposito, Mr. Tokosh, Mr. Zottarelli, Mr. Sabani, Ms. Hascup and Mr. Gatto - PRESENT Mr. Mazzer – ABSENT
Also present were Marlene Caride, Board attorney, Richard Brown, Board engineer and Gary Paparozzi, Board planner.

5. **ANNOUNCEMENT**

Mr. Gatto – The application for World Wheat will not be heard tonight.

Richard Kapner, attorney for the applicant asked to have the application carried to the May 1, 2017 meeting with no further notice.

Mr. Gatto – The application will be carried with no further notice.

6. Mr. Ratajczak addressed the public.

7. **APPLICANT #1 – Alexander Mykula**

25 Bella Vista Avenue, Block 617, Lot 7

Alexander Mykula was sworn in.

Mr. Mykula – I would like a variance to construct a 6 foot privacy fence in my back yard, which according to the regulation, is considered a front yard on Central Ave. Also, the retaining wall, which is on township property, has collapsed. (Passed out Exhibit A-1, three pictures, showing this area and a neighbor's fence.) I would pay to repair the wall, which would be a good base for the fence. I have a child and would like some privacy. My fence would be a continuation of the neighbor's fence. My neighbor was granted a variance. I would also like to add a gate to the front right side of the house, which requires a variance for a 6 foot fence.

Mr. Ratajczak – What would you do with the stairs that are in the back?

Mr. Mykula – I'd like to repair them and the railing.

Mr. Ratajczak – I don't think you can do work on the township property.

Mr. Mykula – Then I will not touch the steps.

Mr. Ratajczak – Were you planning to use this as a back entrance?

Mr. Mykula – I was planning to put a gate there.

Mr. Gatto to Mr. Brown – Would he be able to use those stairs?

Mr. Brown – If the Board approves the application, I recommend the wall be constructed on the property line. If the steps are there and they're not touched, they can stay. He can put a gate there.

Mr. Schilp – You can't repair the wall because it's on town property. You can request from the Town Council to have the town repair the wall.

Mr. Gatto – Our attorney advises that if someone gets hurt on the existing stairs, the town is responsible, so you shouldn't use them.

Mr. Tokosh – Is this a six foot fence?

Mr. Mykula – Yes.

Mr. Tokosh – It will be much higher than your neighbor's fence because of the wall.

Mr. Brown – Jayne should give the applicant the Township engineer's contact information to see what course of action he recommends.

Mr. Esposito made a motion to open the meeting to the public. Ms. Murray seconded the motion. All in Favor – YES

No public participation.

Mr. Schilp made a motion to close the meeting to the public. Ms. Murray seconded the motion. All in Favor – YES

Mr. Tokosh – Do you have to have a gate?

Mr. Mykula – In the future, if the township removes the stairs, I can take away the gate.

Mr. Gatto – The fence can't go on top of block. It will exceed six feet.

Mr. Mykula – The wall shown on the survey has been removed.

Mr. Schilp made a motion to approve the application, provided the fence is 6 foot high at grade level and if the township takes away the stairs, the gate must be removed. Ms. Murray seconded the motion.

VOTE: Ms. Murray, Mr. Schilp, Mr. Esposito, Mr. Tokosh, Mr. Zottarelli and Mr. Gatto – YES

Mr. Ratajczak - NO

APPLICATION APPROVED

8. APPLICANT #2 – Sebastian & Maria Leone

518 Saddle River Road, Block 1309, Lot 5

Paul Krisan, attorney for the applicant came forward.

Pietro Leone, son of the applicant, was sworn in.

Mr. Leone – The existing up and down style two-family house is currently rented out. Both units currently have two bedrooms. The surrounding area consists of residential, business and mixed use and two-family houses. We want to expand both floors, adding a garage to the first floor and a bedroom to the second floor and renovate. We propose a new driveway in front. There is also existing parking in the rear, which we plan on reducing to two parking spots. For demonstrative purposes, Mr. Krisan showed a poster board with a picture of the existing house and the property to the left.

Ken Ochab, planner for the applicant was sworn in.

Mr. Ochab – The existing use is an up and down two-family home; proposed is the same. We propose to expand the structure. We are in the B-1 zone, where residential use is not permitted, so we need a D2 variance for expansion of a nonconforming use and bulk variances for front yard and side yard setbacks.

The entire east side of Saddle River Road is zoned RB, except for 6 lots, between Pehle Ave. and Riverview Drive, in this B-1 zone. All six of these lots have some residential use; 3 are mixed use.

Exhibit A -1 consists of 4 pictures which show 1.) the site in question, 2.) the luncheonette next door, 3.) the left side of the property and 4.) the rear of the subject property, including the house and parking area, some of which will be removed. Exhibit B, photo 1 shows the right of way, which serves five homes in back, located in the RB zone. Photo 2 shows the parking lot in the rear. Photo 3 shows the luncheonette and the area to the right of the subject house. Photo 4 shows the area across Saddle River Road. This is primarily a residential use. The reasons to grant an approval of this application are: 1.) we are not

expanding the use, 2.) the dominant use in this area is residential, 3.) the Master Plan doesn't talk about this area, but it does talk about preserving the character of Saddle Brook, which we are doing, 4.) it also goes to sustainability, which is the ability to walk to businesses and church. With regard to negative criteria, we look at substantial detriment and substantial impairment. The impact on the surrounding neighborhood is negligible (no substantial detriment) and the residential use fits in with the established pattern of development without increasing the intensity (no impairment to the zone plan) The existing front yard setback is 20'; proposed is 18.5 feet. The addition will go straight across, but because the existing house is not parallel to the right of way, it will extend further into the front yard setback. The right side yard setback is currently 19'; proposed is 9.3 feet, which is due to the narrow width (50') of the property. Both of these variances are a C1 (hardship) variance.

Ms. Murray – There is no driveway or curb cut shown on the plans.

Mr. Brown – They will need county approval as Saddle River Road is a county road. The Board requires a signed and sealed survey. Also, if they are removing pavement, they will need to incorporate that to show existing condition as well as proposed conditions.

Mr. Paparozzi – The front setback requirement is 25'. Also, I believe there is a basement in the house. It would be helpful for the Board to see the basement layout. The amount of building coverage is increasing, which requires a building coverage variance.

Mr. Zottarelli – How many bedrooms are proposed?

Mr. Leone – Two on the first floor and three on the second floor. The basement is not finished and will not be expanded. It is accessible from outside and inside. There will be two parking spaces in front on the driveway and one in the garage. The rear of the property currently has six parking spaces. My brother and I will move into this house, so we will remove all but two of those spaces so we can have a yard.

Mr. Paparozzi – It is my experience that the county does not allow you to back out onto a county road. You may need an "L" or turnaround driveway in the driveway, which means you may not be able to get two cars in the driveway.

Mr. Krisan – Would the Board vote on the variances tonight with the condition that we would come back with revised site plan, which would show parking in back and parking criteria in front to satisfy the Board and the county?

Mr. Ratajczak – You'll need county approval first.

Mr. Gatto – I'd rather do everything at once.

Mr. Krisan – We will come back on May 1, 2017. We agree to waive the toll of time.

Mr. Schilp made a motion to open the meeting to the public. Mr. Esposito seconded the motion. All in Favor – YES

Audrey Safin, 3 Dyer Place was sworn in.

Ms. Safin – There are three other properties, owned by Mr. Leone, including the pizzeria, that use the rear parking and the street.

Ms. Murray – It is not his responsibility to provide parking for other properties. Each building has to supply its own parking.

Ms. Safin – They're his properties too. If cars are on the street, a fire truck can't get through.

Mr. Leone – None of those cars come to your property. Your tenants park in the middle of the street.

Ms. Safin – I am also concerned about water.

Mr. Gatto – They are removing some of the macadam.

Dave Rovetto, 2 Dyer Place, was sworn in.

Mr. Rovetto – The problem on the street is parking and snow removal. He has no place other than the right of way to put his snow. We have to use the right of way as a driveway and to walk on to put our

garbage out on Saddle River Road because the garbage trucks don't come down Dyer Place.

Mr. Ratajczak – It's the Township's problem to figure out how to pick up your garbage. You shouldn't have to bring it out to Saddle River Road.

Mr. Gatto – You need to go to the mayor and Council about that.

Mr. Rovetto – Also, when there is snow and parked cars on the right of way fire trucks cannot come down our road.

Robert West, 514 Saddle River Road, was sworn in.

Mr. West – The curb cut on Saddle River Road will affect our parking and our business.

Mr. Ratajczak – That will be decided by the county.

Ms. Murray made a motion to close the meeting to the public. Mr. Schilp seconded the motion. All in Favor – YES

APPLICATION CARRIED

6. APPLICANT #3 – Papaiya Real Estate Investment, LLC/ Krina Real Estate, LLC

66 & 70 Market Street, Block 619, Lots 1 & 2

Richard Kapner, attorney for the applicant came forward.

Mr. Gatto – I believe the application is incomplete. I think it requires a proper site plan. I received a copy of the ordinance to vacate Rosemont Ave. with no Schedule A. No new property lines are shown.

Mr. Kapner – In December 2016, Township Council adopted an ordinance to vacate Rosemont Ave. The new deeds have not yet been filed. Our application does not rely on that property. 70 Market Street was purchased for the very reason that it has parking.

Mr. Gatto – You show parking spaces on Rosemont Ave.

Mr. Kapner – There are two sets of parking spaces. On the drawing, by Harry Tuel, PE PP, two sections of parking spaces are shown on Rosemont; one on each side of the street. All parking (28 spaces), adjacent to 66 Market Street were previously approved (April 2016) by the Board. They haven't changed, nor are we proposing a change. The spaces on the east side of Rosemont Ave. are not included in our application.

Mr. Gatto – I think there should be site plans with this. I don't want to go along with a waiver.

Mr. Kapner – Page 2 is a site plan. It shows all the items found on a site plan; the dimensions of the property and the building, the parking spaces, the entrances and a zoning table.

Everything sought by the applicant is on this plan.

Mr. Kapner established jurisdiction.

Mr. Gatto – The Carroll Engineering completeness review letter states that the application is conditionally complete. Items are needed, such as a signed and sealed survey.

Mr. Kapner distributed signed and sealed copies of the survey.

Mr. Brown – The inclusion of half of Rosemont Ave. will impact the zoning table; coverage, lot area, FAR, etc.

Mr. Kapner – The property has not been dedicated yet. Nothing will be greater for purposes of nonconformity. Nothing will be worse. F.A.R. will go down. Coverage will still be 100 percent. The property has not been deeded to these property owners and cannot be part of this application. However, we're happy to discuss what it will mean when the property is deeded because a lot of good is supposed to happen. It will no longer be a through road. It will be a cul-de-sac. The parking spaces across Rosemont are not counted in this application. What is counted/requested are three separate but connected parking areas: 28 spaces surrounding 66 Market St., 12 in the VFW lot and 25 spaces at 70 Market St.

Mr. Gatto – Will these properties be merged?

Mr. Kapner – No. They are making these properties work together under separate ownership. Mr.

Papaiya is the managing member of both entities. Mr. Brown, in number 3, talks about the 13 spaces,

which are not part of this. Number 4, Mr. Brown states that 3 handicapped spaces are required. Mr. Tuvel will address that.

Mr. Tuvel, our engineer, will address the handicap parking for three spaces.

Mr. Brown – Above the title block on the plan, Mr. Tuvel shows +20 spaces. There are 13 plus 7 spaces on the easterly side of Rosemont Ave.

Mr. Kapner – We did it to show those are anticipated. Seventy spaces are required, sixty five are proposed.

Mr. Brown – Two of the 13 spaces will be on the property owned by Market Street Professionals, not VFW.

Mr. Kapner – They are not included in this application. The long term plan will be to share spaces. Mr. Papaiya proposes getting rid of the nonconforming warehouse use. You'll have a much better streetscape and adequate parking. The building footprint will not change. We are tearing down all of the ugly fences and putting in parking. That parking has been offered to the Police Dept. for overnight parking.

Mr. Gatto – I feel like this is being pushed like last time. I look at the resolution from last time. The dumpster is still full. There is an unregistered van and garbage lying around. (Showed pictures) The dumpster was supposed to move and be enclosed. The conditions of the approval were not satisfied.

Mr. Kapner - The dumpster was not moved because the construction was not done. The new plan locates the dumpster further back, out of site.

Mr. Gatto – Can the dumpster be on the other property?

Mr. Brown – It is our understanding that solid waste will only come from 66 Market, not 70.

Mr. Kapner – Most of the garbage will come from 66 Market Street and it will be cardboard. It will be in an enclosure.

Mr. Schilp – They didn't do it last time, why would they do it now? There are no numbers given for 70 Market Street. There's nothing given for the second floor.

Mr. Kapner – It's on the chart on the right hand side. It says the building is 6,014 square feet.

Mr. Schilp – Is that for the first floor only?

Mr. Kapner – No. It's for both floors.

Mr. Brown – The footprint scaled off to 4,500-4,600 square feet on the survey. If it's two floors, it's almost 9,400 square feet.

Mr. Kapner – There was a CO recently issued that I believe confirmed the 6,000 square feet. They're not going to use the second floor.

Mr. Gatto – He's in business. You can't tell me he's not going to use the second floor. In the future, if you use it, you'll have a parking problem and a use problem because a warehouse is not allowed.

Mr. Kapner – The previous owner, Klein's, used it as a warehouse for 15+ years. The rear third of 66 Market St. will move to 70 Market St. It will bring 66 Market into conformity and it doesn't increase the nonconformity of 70 Market.

Mr. Gatto – Will you have a loading area?

Mr. Kapner – Yes, on the east side of the building, south of the shed. It already exists. Mr. Papaiya intends to only use that ½ door. Deliveries will not come into that lot. There will be testimony regarding that. They will use a forklift.

Mr. Paparozzi – I think it's imperative that the description of Rosemont Ave. is shown on the survey and the site plan. The parking will not be the same because you will have to add two more handicap spots and the loading space cannot be used for loading and parking. The count in that area of 28 spaces will be reduced by 3-4 spaces. You need a wider drive aisle (24') for two-way traffic. The applicant would have to show an agreement with Market Street Professionals. The zoning chart for frontage says pre-existing, but that's not true. The off street parking variance and FAR variance and not shown on the zoning chart. The dumpster for 66 Market needs to be located on 66 Market. There should be floor plans and numbers for 70 Market St. to determine parking spaces. There should be two front setbacks for 70 Market St. The

zoning charts are inadequate. There has to be some revisions. I think the application should wait until the deed is filed.

Mr. Schilp – There is a fire standpipe connection in front of the building. The parking spot there was never painted out. You will lose another spot when you do that.

Mr. Kapner – The municipal assessor says that the ground floor area is 4,365 square feet and gross area 6,014 square feet. That's where our numbers came from. The parking spaces on the side will not disappear because the road is vacated. Those spaces were approved by the Board.

Mr. Schilp – When will we get our questions answered?

Mr. Kapner – All of your questions will be answered.

Mr. Brown – We have the ordinance that vacated Rosemont Ave. Can we get a copy of Schedule A?

Mr. Kapner – I can get that for you.

Mr. Schilp – I'd like a new survey. Also, did the homeowner give permission for you to take this property by the cul-de-sac area?

Mr. Kapner – The surveys are what they are. They're not going to change. No, they did not give permission.

Mr. Schilp – Behind those 13 spots, the road narrows. How can a truck get down there? We need more information.

Mr. Kapner – The engineer will address this. That cul-de-sac isn't part of the application. We can take it and the 13 spaces off of the plan.

Mr. Paparozzi – There needs to be an agreement with the other recipients of the roadway. If you can't use that part of the road, you'll need a turning radius. Seventeen feet is not enough to back up and get out properly. The other property owner could put a fence up there. I think the agreement should come first.

Mr. Tokosh – What kind of truck deliver here?

Mr. Kapner – 4-5 box trucks per day will deliver liquor to 66 Market Street, cigarettes will be delivered by 4 tractor trailers per week. They will use a forklift across the front of the building, before business hours, to bring goods to 70 Market St.

Mr. Tokosh – That would be dangerous for the forklift driver. In bad weather, that won't work.

Mr. Kapner requested five minutes to speak to his client.

Mr. Kapner – We would like to address the issues and come back on May 1st.

Mr. Brown – We need the documents ten days prior to the meeting.

APPLICATION CARRIED

7. MINUTES

Mr. Schilp made a motion to approve the minutes of the February 6, 2017 meeting. Ms. Murray seconded the motion. VOTE: Ms. Murray, Mr. Schilp, Mr Esposito, Mr. Tokosh, Mr. Zottarelli, Mr. Sabani and Mr. Gatto - YES

8. VOUCHERS

Mr. Schilp made a motion to approve the following vouchers provided funds are available:

Carroll Engineering, 03/02/17, Papaiya Real Estate Investment, LLC, \$423

22 Ottawa Avenue, LLC, 03/24/17, Return Unused Escrow, \$775.50

Mr. Esposito seconded the motion. VOTE: Ms. Murray, Mr. Schilp, Mr. Ratajczak, Mr. Esposito, Mr. Tokosh, Mr. Zottarelli and Mr. Gatto – YES

9. OPEN AND CLOSE TO THE PUBLIC

Mr. Gatto made a motion to open the meeting to the public.
No public participation.
Mr. Schilp made a motion to close the meeting to the public.

10. ADJOURN

Mr. Esposito made a motion to adjourn the meeting. Ms. Murray seconded the motion. All in Favor – YES

Meeting Adjourned at 10:20 p.m.

Respectfully Submitted,

Jayne Kapner, Secretary