

BOROUGH OF UPPER SADDLE RIVER PLANNING BOARD ZOOM MEETING MINUTES

WEDNESDAY, FEBRUARY 10, 2021

Mr. Virgona called the meeting to order at 7:10 p.m. The following statement was read:
Pursuant to The Open Public Meetings Act P.L. 1975, Chapter 31, proper notice of this meeting has been provided by e-mail to The Record and The Ridgewood News on December 19, 2020 at which time the date, time, place and purpose of the meeting was set forth and notice was posted on the official bulletin board in the Borough Hall and on the Borough Website.

PLEDGE OF ALLEGIANCE

Present: Mr. Preusch, Mr. Bakal, Mr. Donato, Mr. Richardi, Mr. Bonjuklian,
Mr. Polizzi, Mr. Virgona

Absent: Mayor Minichetti, Ms. DeFuccio, Mr. Jacobs

Also Present: Mark Madaio Esq, Planning Board Attorney
Marisa Tiberi PE, Boswell Engineering/Borough Engineer
Joseph Burgis, PP, Burgis Associates, Borough Planner

OATH OF ALLEGIANCE

Mr. Madaio administered the Oath of Allegiance to Meredith Schaum, Alternate II Member.

APPROVAL OF MINUTES:

A motion by Mr. Preusch to adopt the minutes of the January 13, 2021 meeting seconded by Mr. Bonjuklian.

Roll Call

Ayes: 7 Mr. Preusch, Mr. Bonjuklian, Mr. Bakal, Mr. Donato, Mr. Richardi, Mr. Polizzi,
Mr. Virgona

PUBLIC HEARING

(Continuation of the Public Hearing held Wednesday, January 13, 2021 via ZOOM)

1. Application of **PSI Atlantic USR NJ LLC (Premier Self Storage)**
100 Route 17 North – Block 1304 – Lot 7.01
Major Preliminary & Final Site Plan w Use Variance and Bulk Variances:
Side Yard Buffer, Building Height, Building Coverage, Retaining Wall Height,
Front Yard Setback, Traffic Aisle Location/ *3 Story Self-Storage Facility/Sales Office*)

Note: Mr. Virgona confirmed Certified Court Reporter, Alision Gulino was present on behalf of the applicant and will be providing a transcript of the proceedings.

*Mr. Madaio advised the following Board Members have recused:
Mayor Minichetti, Ms. DeFuccio and Mr. Jacobs.*

Mr. Virgona confirmed all Board Members present this evening are qualified having been present at the previous Public Hearings regarding this application or having certified reading transcripts of the Hearings for which they were absent.

Mr. Madaio confirmed with Mr. Jaworski, Mr. Rosenberg and Board Members as to having no objection proceeding with this application carried from January 13, 2021.

Mr. Jaworski Esq., for the applicant, submitted revised **Exhibit A-10** dated February 10, 2021.

Mr. Madaio marked the report of PSI Atlantic (Premier Self Storage submitted by Joseph Burgis, PP dated February 8, 2021 as **Exhibit PB-6**.

Mr. Virgona confirmed the public had access to the Burgis report.

Mr. Jaworski commenced his Direct Examination of Mr. Hughes, PP for the applicant.

Mr. Hughes, remaining under oath, testified to having reviewed the Burgis Report dated February 8, 2021, **Exhibit PB – 6**, and offered the following conclusions: the property located in the overlay zone is identified with an Affordable Housing Overlay, but it does not eliminate the H-1R Zone. The Borough did not eliminate the Commercial Zone and continues to develop undeveloped commercial property. Regarding, self-storage facilities and warehouses not being a permitted use in the H-1R Zone, Mr. Keenan testified self-storage can be distinguished from a warehouse and; today's self-storage facilities were not contemplated when the prohibited list was established in 1984. The proposed self-storage facility is well designed and of high quality having a positive impact, it is not an open-air roll-up door seen in the 70's and 80's. The size and shape of the proposed facility on the property located in the split zone can be accommodated while still keeping a substantial buffer and; due to the limits of the Ten Cees Agreement is well suited for the site, referencing the approval of the Westy Self Storage Facility. Mr. Keenan testified in his opinion, the positive criteria in support of the "d" variances were satisfied.

Joseph Burgis PP, Borough Planner, duly sworn by Mr. Madaio, testified to the affordable housing overlay zone designation implication on this use variance application. Mr. Burgis testified the Housing Element and Fair Share element of the Borough's Master Plan identified the subject property as an Affordable Housing Overlay part of the Borough Master Plan for this and adjoining properties. He does not think the affordable housing supercedes the Borough's plan to revitalize the Route 17 North corridor. Overlay ordinances state that the underlying zoning shall be retained; there does not appear to be any case law on this matter suggesting one cannot request a use variance because there is an affordable housing overlay.

In response to Mr. Rosenberg Esq. for the objector, Mr. Hughes testified to questions regarding his testimony related to the site of the Westy Self Storage Facility and clarified the proposed self-storage facility is "circa 2021", a much different type from what existed when the Borough prohibited "mini warehouses" in 1984.

Upon no comments from the Board, a motion to open the Hearing to Members of the public by Mr. Polizzi seconded by Mr. Bakal. No one appeared to provide testimony.

Donna Holmquist, PP for the objector, was duly sworn by Mr. Madaio.

Mr. Rosenberg advised Ms. Holmquist would supplement testimony related to the issue of reconciling the affordable housing overlay zone and the use variance.

In response to the Board, Ms. Holmquist clarified that while in the employment of Burgis Associates, she did work for the Borough. However, she left the firm in 2016 and had not worked on anything related to Upper Saddle River since 2016.

In response to Mr. Rosenberg, Ms. Holmquist testified to having reviewed the Borough's Master Plan, presenting a map of the area, entitled *100 Route 17 Affordable Housing Overlay Zones*, marked as **Exhibit O-7**. Ms. Holmquist testified it is an aerial map depicting the overlay zones implemented by the Borough in accordance with their recent settlement agreement. Ms. Holmquist reviewed each of the four overlays zones, describing the subject site as being unique with direct highway frontage with no environmental constraints. The four overlays combined provide an opportunity to provide 136 affordable housing units. Ms. Holmquist testified vacant land in the Borough is very scarce and would be lost by the development of the proposed facility. Ms. Holmquist testified the subject property, part of the overlay, provides an important opportunity to advance the purposes of planning by providing housing for the population and at appropriate densities, referencing the next round for affordable housing, starting in 2025. Ms. Holmquist further testified the Medici criteria is not satisfied, and by approving this variance would be in effect, rezoning the property and disagrees that the ordinance is dated. The negative criteria, is problematic due to the fact this property has been identified for affordable housing unmet need.

In response to Mr. Jaworski, Ms. Holmquist testified the underlying H-1R and R-1 zonings are still intact on this site.

Mr. Virgona opened the Hearing to the Board for questions regarding testimony provided by Ms. Holmquist.

In response to Mr. Burgis, Ms. Holmquist agreed the applicant is entitled to pursue a variance application but in her opinion the Board was rezoning this property for a self-storage facility by granting the variance. Ms. Holmquist agreed the Borough's Housing Element and Fair Share Plan contained alternate mechanisms to address its affordable housing obligation, among them, a development fee from this site even though the housing is not constructed on this site. Opposing opinions followed regarding the spending plan, vacant land adjustment and overlay zones.

Mr. Burgis clarified there is no case law to support the contention where you have an affordable housing overlay, you are not allowed to file a use variance.

In response to comments from the Board, Mr. Madaio clarified the Borough has already decided this site is a useful and valuable affordable housing overlay site and, in Mr. Burgis's opinion is just another use or potential use of the property and that the underling permitted uses still exist.

A motion to open the Hearing to Members of the public for questions regarding testimony provided by Ms. Holmquist and Mr. Burgis. No one appeared to provide testimony.

A motion to open the Hearing to Members of the public for comments regarding the Application by Mr. Bakal seconded by Mr. Polizzi.

Donald Eisen, 130 Lake Street, commented this particular site would create 24 to 30 market units for people who sell their homes in town and be able to remain. It would be very nice for senior and for younger people to have a place to begin or end their lives in this community. Mr. Eisen commented

he understands the difficulty faced with these kinds of decisions and it is unusual to find a site which accommodates some of those uses.

With no further comments, Mr. Virgona closed that portion of the Hearing to the public.

Mr. Rosenberg Esq, for the objector, provided his summation, stating the reasons why this application should be denied: The applicant has failed to demonstrate how the property is particularly suited for the proposed self-storage use; the property has reasonable development potential, and the borough will be able to deal with issues of the 10 Cees Agreement; the applicant has failed to show the required use variance is consistent with the intent and purpose of the zone plan and zoning ordinance. The property owner is under no hardship if compelled to use the site for a conforming use. The applicant has not demonstrated the use variance can be granted without substantial detriment to the public good and there will be no substantial impairment to the purpose of the zone plan and zoning ordinance.

Mr. Jaworski Esq., for the applicant, provided his summation as to why this application should be approved. Recognizing the required use variance, the proposed facility use is different than what is prohibited, it is not a mini-warehouse. Mr. Jaworski reviewed the requested bulk variances stating they are almost irrelevant considering there is a 65 ft. buffer to any improvements to the rear of the residential properties. Any improvements have been moved 65 ft. away. The building height will not exceed 36 ft., the future rear parking has been eliminated, the variance for aisle width has been eliminated. The variance requested for proposed free standing sign location is to allow it to be viewed from Route 17. The applicant has met the criteria regarding the bulk and use variance. Mr. Jaworski stated the objector has not been impacted by what is proposed for this site, other than competition. This site has been vacant since the 1980's due to the limitations of 10 Cee Agreement, for which there are very few uses. The proposed use is less intrusive, having 65 ft. of green space between the curb line and the residential property line, with 100 ft. between the building and the residents. Regarding the issues raised as to the overlay zone, the underlying zoning is still intact, with nothing precluding an application for development. Any concerns raised by the Fire Dept have been satisfactorily addressed by the applicant, and the Police Dept. did not have any traffic safety concerns with this project. Mr. Hughes' testified the Board is empowered to grant the requested use relief, which is absolutely correct.

Mr. Jaworski stated the site has been vacant too long and asked for the Board to vote favorably in regard to the use variance, site plan and bulk variances.

Mr. Virgona called for comments from the Board.

Mr. Richardi commented on the previously approved application for the auto dealership, for which he may have voted against.

With no further comments from the Board, Mr. Virgona closed the Hearing.

A motion by Mr. Polizzi to approve the application with the stipulations as Mr. Madaio has recorded seconded by Mr. Preusch.

Roll Call

Ayes: 7 Mr. Polizzi, Mr. Preusch, Mr. Richardi, Mr. Donato, Mr. Bakal, Mr. Bonjuklian, Mr. Virgona.

ADJOURNMENT

A motion to adjourn by Mr. Bakal seconded by Mr. Preusch was unanimously approved by all Members present. Meeting adjourned at 9:19 pm.

Respectfully submitted,

Linda Marmora, Clerk