

Minutes of the Board of Adjustment of the  
Township Of Hanover  
April 4, 2017

Chairman Stanziale called the Meeting to order at 7:45PM and The Open Public Meetings Act statement was read into the record:

Board Secretary, Kimberly A. Bongiorno, LUA, took the Roll Call.

In attendance were Members: Caruso, Fomchenko, Hingos, Iradi, Linfante, Neidhardt, Stanziale and Walsh

Absent was Member: Donaldson

Also present were Board Attorney, Daniel Bernstein, Township Planner Blais Brancheau and Township Engineer, Gerardo Maceira, PE.

**Public Business Presented**

**I. RESOLUTIONS TO BE MEMORIALIZED**

- |           |                    |                          |
|-----------|--------------------|--------------------------|
| <b>1)</b> | <b>CASE NO.</b>    | 1795                     |
|           | <b>APPLICANT</b>   | COBRA AUTO PARTS         |
|           | <b>OWNER</b>       | JOE LASORSA & SONS, INC. |
|           | <b>LOCATION:</b>   | 156 PARSIPPANY ROAD      |
|           |                    | WHIPPANY                 |
|           | <b>BLOCK:</b> 8503 | <b>LOT:</b> 4            |
|           |                    | <b>ZONE:</b> R-40        |

Applicant's site is currently developed with an auto salvage business. Applicant sought Preliminary and Final Site Plan approval as well as "C" & "D" variances in order to construct an open steel frame structure, install an office trailer, fencing and a gate, reconfigure portions of the parking area and remove trees as necessary to accommodate the improvements. Applicant sought relief from sections §166-165, §166-166, §166-119.1, §166-124B, §166-167B(1), §166-114B(6). Application approved January 19, 2017.

The above resolution was approved with amendments.

Time of operation changed from 5:00PM to 6:00PM.

A motion to approve the resolution was made.

Moved by Member Walsh and seconded by Member Fomchenko.



**OWNER** Settimo & the Three Musketeers, LLC  
**LOCATION:** 64 South Jefferson Rd.  
Whippany  
**BLOCK:** 2602/2903 **LOT:** 1.01, 6, 12 & 1 **ZONE:**I

Applicant is preliminary and final site plan and “D” variance approval in order to permit the occupancy of vacant leasehold within one of the existing office/warehouse buildings on the subject property in order to operate a motor vehicle service station. The applicant is a manufacturer of specialty performance parts for high performance Porsche automobiles. The applicants operations include the development, testing and installation of such specialty parts on customer’s Porsche automobiles. The applicant also custom builds high performance Porsche vehicles. Applicant is seeking relief from sections 166-194A, 166-195 and 166-150K.,.

PARTIALLY HEARD AND CARRIED FROM MARCH 7, 2017

Dereck Orth – Attorney for Applicant

- He gave an overview of the application.
- Believes this is a hybrid use with more manufacturing and assembling rather than service station.
- Previously heard testimony from Paul Fiaetta the owner and the Engineer, Peter Korzen.
- Will be calling the property owner Joe Guittila and Paul Rickie the Planner.

Joseph Guittila – Property Owner

- Sworn in by Board Attorney.
- Testified that they have installed the required landscaping and finished the parking lot stripping.
- There are over 70 parking spaces with new striping.
- Referred to plan page 3.
- Referred to the fenced in area behind building A.
- Relocated behind building C and testified that the prior construction code official Stephen Kaplan told them they could move behind building “C”.
- Gave an overview of their food distribution business.
- Gave an overview of businesses that were on the site when they purchased the property.
- Discussed the changes that have been made on the site.
- Gave an overview of the 2009 approvals and hoping to start building in 2017.

Blais Brancheau and Gerardo Maceira were both sworn in by Board Attorney.

Mr. Guittla

- Has not met the conditions of the 2009 resolution because they were not ready to build yet.

- Discussed the rooftop equipment that had been installed.
- Gave his opinion of the general cleanliness and appearance of the site as tidy.
- They keep it as clean as they possibly can.
- Exhibit A-1 Collated packet of 5 photos

Mr. Bernstein validated the photos that were taken by Mr. Guittla on 4/4/17.

Mr. Guittla

- Described each photo in the packet.
  - a. Page one and two shows building A.
  - b. Page three shows street view of Building B.
  - c. Finished landscaping all of the bushes and seeded the lawn.
  - d. Page four shows side view of building B.
  - e. Page 5 shows striping that was added behind building A.
- We will be seal coating the front lot and stripping later this year.
- Discussed the outstanding maintenance issues.
- It only can be settled in front of the judge.
- We missed the court date so court date needs to be rescheduled.
- The food distribution business receives cargo every single day and is shipped on pallets so they have a stock pile of pallets that they are recycling.
- Once they receive a trailer with a load of pallets they will call the recycler to pick up the pallets and then start a new stock pile.
- Discussed the reasons why they feel that the applicant Protosport will be a good tenant and neighbor.
- Reviewed the Engineer's report dated March 6, 2017

Chairman Stanziale reviewed the set of pictures of the violations on the site.

Mr. Guittla

- All construction debris on the site has been removed.

Chairman Stanziale

- Is concerned with the debris and the breeding rats on the site.
- Concerned if this is how they keep their house on the inside and the outside.

Mr. Guittla

- We are waiting on a 40 yard dumpster to remove the rest of the debris on the site.

Chairman Stanziale

- Wants to know how they will address the dumpster problem.

Mr. Brancheau

- Storage cannot be stored outside.

Mr. Neidhardt

- Wanted to know what kind of material the pallets are made of, wood or composite?

Mr. Guittla

- The pallets are made of both wood and composite and can have up to 500 pallets or more at a time waiting to be picked up.
- We cannot store inside the building due to space.
- We can do racks on the outside to stack the pallets.
- The pallets cannot be seen from the street and have to be onsite to see it.

Chairman Stanziale

- Just because it cannot be seen from the street it doesn't mean it's allowed.

Mr. Brancheau

- The code is written as it says and it is not allowed.

Mr. Linfante

- Asked if there was a way to work with the recycler to provide a trailer so they can load the trailer and the recycler could just take the trailer and drop and empty one.

Mr. Brancheau

- Reviewed code 166-124 Outdoor Storage and how it reads today.

Mr. Linfante

- The pallets are ancillary however it is their storage condition that the board has an issue with.

Mr. Guittla

- Suggested building an enclosure for the pallets and would not store over 8ft in height.
- Submit a revised site plan to where and what extent this area would be and how much parking would be left as well as other outstanding issues.
- Wants one set of plans and direction from the board.

Carol Fomchenko

- Questioned the right way direction of sidewalk and the open space right of way in the rear.

Mr. Orth

- We are working on the right of way issue.

Mr. Brancheau

- There is no approval for pallets and it would require a variance and the board needs a site plan to show how it will affect parking.

Open to public  
Hearing and seeing none  
Closed to public

A ten minute break was taken.

Mr. Orth

- Discussed the timing issues and how the client needs to vacate their current location.

Mr. Bernstein

- Questioned, bifurcating the case with Mr. Brancheau.

Mr. Orth

- The pallets will be stored inside or in a trailer.
- Can provide an as built to show the property as it currently is

Mr. Maceira

- Suggested posting a bond with a time frame on the bond.

Mr. Bernstein

- We will discuss at the end of all testimony.

Paul Ricci – Planner for the Applicant

- Sworn in by Board Attorney
- Provided Board with an overview of educational and professional background.
- Accepted by the Board.
- This is a true industrial area and feels this use fits within the zone.
- Seeking a D1 Use Variance and C2 variance for off street parking.
- Seventy- five parking spaces would be provided.
- Discussed the particular suitability as this is a specialized niche business.
- This is clearly a use that is different from a service station.
- This use will have manufacturing and assembly.
- Described the light industry uses and how there is currently no zone in the Township that permits this particular use.
- Proposing use in solid concealed building.
- The cars would not be parked outside and its high quality use with high quality clients.
- There will be no negative impact to the area from this use.
- The vehicles will be parked inside as there will be no noise or odor impacts such as light and dust.
- There would be adequate separation of uses which is being provided and adequate parking that would be provided.
- He believes the variances can be granted without substantial detriments to the zone.
- Meets the burden of proof under the Medici

Mr. Brancheau

- Original case #1689 granted a parking variance that amended 1689 and 1689R1.
- Could rule on the parking variance if required.
- Doesn't feel a parking variance is necessary but did raise issue of the parking calculations.
- He raised issues on the plan information.

Mr. Orth

- The client will store all palates inside the building.

Paul Fietta – Owner of Protosport

- Any standard damage such as an auto accident would not be brought to this site and it would be brought to a body shop.

Mr. Linfante

- The Board is struggling how to distinguish this use from a regular automobile service.

Mr. Brancheau

- Read the definition of auto repair for the ordinance.
- Reviewed the *I* zone prohibited uses and the definition of an accessory use.
- An accessory use supports the principle use.

Mr. Bernstein

- This is a niche business that is somewhere in between service business and manufacturing.

Mr. Brancheau

- Reviewed the proposed floor plan

Mr. Orth

- Summarized the case

Open to public

Frank Bennet – Staten Island, New York

- Customer of Protosport
- Gave an overview of the unique service he receives from the applicant.

Closed to public

Mr. Bernstein

- Discussed to possibly bifurcate the application.

Mr. Brancheau

- The plan has to be consistent with the prior plan or have an amended plan, irrigation storage and landscaping buffer which are not consistent with the approved plan.
- The applicant proceeded with partial improvements and others were done that were not on the plan and others were not done at all.
- The two plans must be in sync.

Mr. Maceira

- Discussed how the bond would be calculated and how the bond would be to insure compliance and the improvements to be completed.

Mr. Guittla



- The applicants engineer would meet with the township engineer.

The Board wants to establish a minimum bond amount.

Mr. Maceira

- Is not comfortable giving a number this evening and will work with the applicant's engineer.

Mr. Bernstein summarized the conditions.

The Board took time to deliberate.

Mr. Brancheau

- Wants crystal clear on what needs to be done before the plans are signed and tenant can occupy site.
- Suggested a two phase approval.
- Phase one is for the floor plan and the building plan would be phase two which would be completed within a certain time period and bond posted.

Motion to approve with conditions of two phase approval and other conditions.

Moved by Member Walsh and seconded by Member Hingos.

Members Caruso, Fomchenko, Hingos, Linfante, Neidhardt, Walsh and Chairman Stanziale were all in favor.

**Board decision due by:** May 11, 2017

<b>2)</b>	<b>CASE NO.</b>	1806
	<b>APPLICANT/OWNER</b>	26 PARSIPPANY RD. LLC
	<b>LOCATION:</b>	26 PARSIPPANY ROAD
		WHIPPANY
	<b>BLOCK:</b> 4204	<b>LOT:</b> 1
		<b>ZONE:</b> BP-2

Applicant is seeking bifurcated 'd' variance approval to construct 141 units of multifamily housing with associated parking and related structures. Applicant is seeking relief from § 166-186.11B(2) – maximum density (8 units per acre permitted, 12 units per acre proposed) and maximum height of principal buildings (3 stories/45 feet permitted, 4 stories/approx. 60 feet proposed). If the 'd' variances are approved, the application will be

required to obtain any necessary ‘c’ variances and site plan approval as part of a subsequent hearing.

***Board decision due by: JUNE 1, 2017***

Case carried to May 18, 2017.

No further notice required except to the two utilities that were defective.

**III. OTHER BUSINESS**

Mr. Bernstein

- Addressed the board regarding quasi-judicial body and acts in a judicial capacity.
- Applications are not to be discussed outside of public proceedings.
- Substance cannot be discussed outside a public meeting room.
- In an abundance of caution a member has been asked to recuse themselves due to comments made on a Facebook post.
- Reviewed the law
- Advised members against posting and commenting on social media or through e-mail – perception is everything

Mr. Linfante

- Is on EDAC and had an opinion before the applicant came to this board and will be recusing himself from case #1806

Ms. Iradi

- Asked Mr. Bernstein to put on the record the evening of the hearing why she has to recuse due to the Facebook post.

**IV. ADJOURNMENT**

Meeting Adjourned at 10:49P.M.

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KIMBERLY A. BONGIORNO, LUA.  
BOARD SECRETARY  
BOARD OF ADJUSTMENT  
TOWNSHIP OF HANOVER

COUNTY OF MORRIS  
STATE OF NEW JERSEY