

III. MEMORIALIZING RESOLUTIONS:

**1. DOCKET #1457-19 – HENRY AND MARIBEL CORTES
186 HALIFAX ROAD, BLOCK 1, LOT 126**

Resolution of Approval for an Application for “C” Variances/Waivers to construct a single-family home with retaining walls that are greater than 6 feet in height; side-yard setback of 48 feet where 50 feet is required, Soil Movement Permit Application with waiver to create slopes of 1V:3H; construction on a lot that does not have frontage upon an improved or approved street; construction on a roadway that is not improved or approved; construction on an existing undersized lot.

Mr. Cascio read from the Resolution.

Mr. Montroy requested that a correction be made to paragraph 4; the sprinkler system is a 13R (residential), not a 13D.

A motion to approve with conditions was made by Mr. Calijone, seconded by Mr. Jackson. A roll call vote revealed 3 aye votes by Mr. Calijone, Mr. Jackson, and Mr. Rabolli.

IV. OPEN TO THE PUBLIC:

Mr. Rabolli opened the meeting to the Public for general questions or statements. No members of the Public were present.

V. PUBLIC HEARING(S):

**1. DOCKET #1473-19 – MAHWAH SALES & SERVICE, INC.
55 FRANKLIN TURNPIKE, BLOCK 70, LOT 3**

Carried from February 19, 2020 - Application for “C” Variances to make modifications to the building, façade and signage, as well as amended Site Plan approval for existing parking and the use thereof. Mr. Rabolli announced that the Docket is being carried to the March 18, 2020 Board of Adjustment Meeting. No further notice is required.

**2. DOCKET #1474-19 – MICHAEL K. BARSELLA
1 BABBIT BRIDGE ROAD, BLOCK 164.01, LOT 48**

Application for a “C” Variance to install fencing in three front yards.

Mr. Cascio stated that the Notice was in order.

Mr. Michael K. Barsella, Homeowner of 1 Babbit Bridge Road approached and was sworn in by Mr. Rabolli. Mr. Barsella stated that there were bear and deer in the neighborhood near the back yard of his home and that his goal is the construction of a 54 inch high fence in the front and sides, 6 foot in the rear to provide safety for his young children. Mr. Barsella described the three front yards as Pulis Avenue, Babbit Bridge Road, and Hutton Drive, noting that there would be no fence along Hutton Drive. Mr. Rabolli described the Code relating to a three front yard scenario; abutting three parallel yards. Three front yards, one side yard and no rear yard requires a variance for a fence height of 54 inches. The proposed fence will be in line with the front of the house. Per Mr. Rabolli, this is actually a side yard issue; the back isn't really the back. The type of fence proposed is black aluminum see through; an estate fence.

Discussion took place regarding the uniqueness of the property, possible obstruction to neighboring properties, and the request for 4 ½ foot fencing vs. the 4 feet permitted.

There were no further questions for Mr. Barsella from the Public or Members of the Board.

A motion to go into Work Session was made by Mr. Montroy, seconded by Mr. Jackson. All voted in favor.

Note: Work Session for this Docket occurred immediately following Public Hearing.

**3. DOCKET #1476-20 – STATE LINE SG HOLDINGS, LLC
200 PERFORMANCE DRIVE, BLOCK 26, LOT 1.02**

Application for a Use Variance to utilize a portion of the property for an automotive dealer office with outdoor car storage.

Mr. Cascio stated that the Notice was in order.

Ms. Danielle Federico, Esq. from the Law Firm of Kaufman, Semeraro and Leibman, Two Executive Drive, Suite 530, Fort Lee, NJ, approached, representing the Applicant, and was sworn in by Mr. Rabolli. Ms. Federico commented that those present for this Docket were the Owner, the Tenant Owner (All American Ford), the Engineer, and the Planner.

Ms. Federico described the property as consisting of approximately 19.6 acres located on the East side of Orient Boulevard near the ramp of New Jersey State Route 17 North, part of the complex know as Sharp Plaza. Located in the OP200 Office Park Zone, it is currently developed with a warehouse office building of approximately 289,393 square feet. The Applicant is seeking Use Variance approval for a new tenant, All American Ford, for an automotive dealer office with outdoor car storage, which is not permitted in

the OP200 Zone. No changes are proposed to the site other than re-striping of the parking spaces to identify them as All American Ford spaces.

Ms. Federico called her first witness; **Mr. Brian Milberg, Owner of Sitex Group, 10 West Forest Avenue, Englewood, NJ** approached and was sworn in by Mr. Rabolli. Mr. Milberg stated that the parking lot has vacant parking spots, is not being paved or expanded; they are purely creating excess parking for the Tenant Owners, All American Ford, for new cars and cars coming off lease. The vehicles typically stay at the property for 7 – 10 days. It is a very short term lease of two years. As with all tenants, when the lease is up, the parking spaces will return to Sitex. The building is fully leased. It is anticipated that the 40,000 square foot mezzanine will be torn down. There are 312 parking spaces; 200 currently assigned to existing tenants, not all being used. Those spaces are not part of the excess parking being provided to All American Ford. As far as site operations, storing of the vehicles does not interfere with other tenants. There is less traffic vs. cars coming and going on a regular basis. Existing tenants all have parking plans; leasing to this tenant does not interfere with their parking plans. Asphalt will be marked in blue for All American Ford parking. There will be no changes to the site. All American Ford will have office space in the building; space that was previously a security office, then mail room and now back to security. The building is equipped with cameras and security. Keys for the vehicles will be stored inside the office space. There will be a camera that takes snap shots of the license plate of every vehicle that comes on and off the site.

Questions were posed by Members of the Board. Mr. Milberg responded, stating that there will be no selling of vehicles; the use is for storage only. Car carriers will come in once or twice a day. There is a loading court on the North side of the building with extra truck space that will not interfere with passenger vehicles. Parking for the mezzanine is not being demolished; the parking lot was already excessive, and is being reduced and redesigned. There are 312 parking spaces. Referencing the Parking Plans on the Poster Board, Mr. Milberg described the color coordinated parking spaces by tenant - Amazing Savings (yellow) has 52 employees and is only using 1/3 of the allotted parking spaces. Other tenants are RJ Brands (orange) with 57 employees; Sharp has warehouse storage only and has 3 allocated parking spaces. The blue is the currently vacant proposed area for All American Ford to occupy 180 of the 312 spaces. The reason for the two year lease is that Amazing Savings' lease expires in 2 ½ years and Sitex wants a new tenant to have the ability to utilize the parking.

There were no further questions for Mr. Milberg from the Public or Members of the Board.

Ms. Federico called her next witness; **Mr. Jonathan Selman, Owner of All American Ford, 375 Route 17 South, Paramus, NJ** approached and was sworn in by Mr. Rabolli. Questioned by Ms. Federico, Mr. Selman described the nature of his business as being new and used automobile sales. The property will be used for temporary storage of new

and lease returned vehicles for 7 – 10 days. Daily operations will have a lot attendant, responsible for keys, to meet and greet drivers once or twice a day to make sure there are no issues with the vehicles. Lease returns will be dropped off from the new car facility, picked up by Ford Motor Company. New cars will come from Ford Corporation until they go to the dealership for preparation and stay at the dealership for sales. The office is just to complete paperwork; no sales will take place. Security cameras will be put up on one side of the building and in the office to protect keys. Truckers come in once or twice daily, earlier and later in the afternoon. The 180 parking spaces will be utilized by the Ford Dealership at 375 Route 17 South in Paramus, NJ and the Lincoln Dealership on the opposite side of Route 17 in Paramus.

Discussion took place regarding contracted carriers, delivery and pickup times, visual of cars, other activity, and coverage of the cars.

- The carriers are contracted by Ford.
- Delivery and pickup activity will be from 8:00 – 9:00 a.m. start time and 5:00 – 6:00 p.m. end time.
- The leased returns are generally 2-3 year old late model Fords or Lincolns. The new cars are wrapped in white. The percentage of each is a 50-50 split.
- There will be no detailing, washing, etc.; strictly storage.
- The cars will be parked in the open; no structures or coverage.

There were no further questions for Mr. Selman from Members of the Board or members of the Public.

Ms. Federico called her next witness; **Ms. Donna Holmqvist, Planner, Preferred Planning Group, 110 Chestnut Ridge Road, Suite 192, Montvale, NJ** approached, gave her credentials and was sworn in by Mr. Rabolli and recognized as an expert in Planning. Questioned by Ms. Federico, Ms. Holmqvist stated that she had looked at the Township Zoning Regulations, reviewed Maser Consultants Planning Report and the Township's Master Plan, and visited the site. Six exhibits prepared by John McDonough were distributed to Members of the Board and described by Ms. Holmqvist. Ms. Holmqvist discussed the uniqueness of the site and commented that the Google Map does not show the large warehouse distribution building on the property to the East at 100 Performance Drive.

- Exhibit A1 - Parcels Tax Map
- Exhibit A2 - Ariel Map – Google image is not accurate as to existing conditions
- Exhibit A3 - Landuse Map – Color coded by tenant site. Hotel and office building to the South.
- Exhibit A4 - Zoning Map; amended in July 2019, adopted for mixed use development including big box retail to the South

The OP200 does allow for office and warehouse use. The Applicant is requesting a D1 Variance relief for outdoor storage, which is a new use on the site.

Two photo exhibits depicting views of the existing conditions on the site were presented:

- Exhibit A5 - Photo of the remote location; looking South, highway to the right, subject parking to the left. The parking area is parallel to Orient Boulevard, a unique roadway, an extended ramp for the regional highway network, promoting the connection from Route 17 to Route 287. Distinctive characteristics for the property that contribute to an approval.
- Exhibit A6 - Photo of parking area on the South side of the building, looking to the West to a virtually empty parking lot.

Ms. Holmqvist commented that all exhibits comport with her observations and her research regarding Land Use Zoning and characteristics of the site.

Mr. Cascio requested the number of parking spaces on the West and South sides of the building.

Mr. Rabolli called a five (5) minute recess to allow Ms. Holmqvist time to review her Field Notes and to confer with the Engineer that prepared the Plan.

Returning to the Public Hearing for this Docket, Ms. Holmqvist confirmed that parking would be in both blue areas; 66 spaces on the West side of the building and 114 spaces on the South side will be devoted to the Ford Enterprise.

Ms. Holmqvist continued, stating that 75% of the spaces shown in highlighted areas all around the building were vacant by her observation when visiting the site in early afternoon, which is critical in evaluating the appropriateness and reasonableness of this request. Providing the Zoning rationale for the D1 Variance, Ms. Holmqvist noted the following positive criteria for granting of the D1 Variance;

1. The compatibility of the use on the site - industrial distribution developed character
2. The unique location of the regional highway network; at the Northern most portion of the Township near New York State boarder
3. Remote from any residential development
4. The application, by utilizing existing vacant paved surface and promoting economic development, furthers at least two of the purposes of Planning from the Municipal Land Use Law, i.e.,
 - a. 40:55D-2 – Purposes of Planning
 - i. Subsection A – To encourage Municipal action to guide the appropriate use or development of all lands in this State in a manner which will promote the public health, safety, morals and general welfare.

- ii. Subsection G – To provide sufficient space in appropriate locations for a variety of uses, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens.

As indicated by previous testimony, there are no modifications to the property. There will not be any substantial detriment to the public good, nor any substantial impairment to the Zone Plan and Zoning Ordinance.

Looking at the Township Master Plan from 2017, and the 2014 Sustainable Economic Development Plan, it is believed that the purposes of a stable, ratable base and sufficient land uses are promoted by implementing this plan as proposed.

Ms. Holmqvist referred to Maser Consultant's Report dated February 28, 2020, page 3 of 4, where Ms. Lawlor analyzed the Use Variance and cited the only section of the Mahwah Code that addresses outdoor storage as being Section 24-6.8 regarding requirements for storage areas. Mr. Rabolli addressed each area, with Ms. Holmqvist responding:

- Abutting existing residential development, residential streets or in the R district - **no**
- Flammable and explosive liquids – **none, other than gas in the vehicles, no storage**
- Fencing or infringement of setbacks – **not adding any fencing to the site**
- Deposited waste – **none, no detailing or washing of vehicles, no pollution**

Ms. Holmqvist stated that the Applicant is compliant in all areas cited and requested that an affirmative vote be made for the Applicant's relief.

Mr. Jackson questioned the notations in Section D, C Variances, of Ms. Lawlor's Report regarding parking location at grade. Ms. Holmqvist stated that in the OP200 Zone requirement for a portion of parking to be in a structured requirement or below grade. There have been a number of approvals previously granted. Ms. Federico added that there was no requirement for a parking setback, 30 feet required in the front yard, 119 feet existing and proposed, siding 8 feet, 8 feet proposed – the requirements were met. The parking is not being altered. Mr. Cascio commented that there were five (5) Resolutions in the package that covered parking.

Mr. Rabolli requested that the Boswell Engineering Report be addressed from page 4;

11. Parking Plan
12. Parking Spaces
13. Existing signage – painted blue on asphalt; small Ford signs will remain
14. Fencing – none; cameras on site
16. No changes to the site
17. All American Dealer office provided in the building
18. Testimony of daily operation
19. Traffic; Car Carriers – on North side of building to drop cars off

20. All American Ford has a number of dealers in the area – testified of the Dealership on Route 17 South in Paramus and the Lincoln Dealership across the street
21. Landscaping – no landscaping to be done

All items cited were covered during the Applicant's and witness' testimony.

There were no further questions for Ms. Holmqvist from the Public or Members of the Board.

Ms. Holmqvist called her next witness: **Mr. Scott Turner, Principal Civil Engineer, Menlo Engineering Associates, 261 Cleveland Avenue, Highland Park, NJ** approached, gave his credentials and was sworn in by Mr. Rabolli. Questioned by Ms. Federico, Mr. Turner commented that he was familiar with the site and the proposed use, and that his office had prepared the Parking Plan. Referring to Exhibit A7 - the Prepared Parking Plan dated March 4, 2020 on the poster board, Mr. Turner stated that the testimony given by the Owner and the Tenant was consistent with the Plan. No site improvements or new landscaping improvements are being proposed. Designated parking spaces are shown on the plan for the various tenants; Amazing Savings, All American Ford, RJ Brands and Sharp Plaza. All American Ford parking spaces will be designated with a 4 inch wide solid blue stripe.

There were no questions for Mr. Turner from the Public or Members of the Board.

A motion to go into Work Session was made by Mr. Montroy, seconded by Mr. Cannava. All voted in favor.

VI. WORK SESSION

1. DOCKET #1474-19 – MICHAEL K. BARSELLA 1 BABBIT BRIDGE ROAD, BLOCK 164.01, LOT 48

Application for a "C" Variance to install fencing in three front yards.

Mr. Rabolli summarized, stating that the proposed 54 inch and 72 inch fences were not permitted, but due to having three front yards, a fence variance is being requested. The Applicant has provided very rational reasoning; bear in the back yard area near his home and the fact that he has young children.

In response to Mr. Calijone's inquiry regarding the Wetland Conservation easement on the left hand side, Mr. Barsella stated that there is a stream, however, the fence would not be on the Conservation part of the property, which is heavily wooded.

A motion to approve was made by Mr. Montroy, seconded by Mr. Cannava. A roll call vote revealed 5 aye votes by M. Calijone, Mr. Cannava, Mr. Jackson, Mr. Montroy, and Mr. Rabolli.

Mr. Rabolli stated that the Application was approved and explained the process to Mr. Barsella with regard to Zoning; memorialization, notice to the public, and appeal.

**2. DOCKET #1476-20 – STATE LINE SG HOLDINGS, LLC
200 PERFORMANCE DRIVE, BLOCK 26, LOT 1.02**

Application for a Use Variance to utilize a portion of the property for an automotive dealer office with outdoor car storage.

Mr. Rabolli summarized the Application stating that although it is for a Use Variance, the parking lot had already been established based on plans that were approved years ago in anticipation that the warehouse would be used to some extent. The economy has changed, the environment is different; the space is not fully occupied. There is no Negative criteria. If the property was utilized to its full potential the lot would be close to being full. The Applicant is proposing to repurpose the site, given changes in economy. This is not an issue. Each tenant is assigned parking spaces. The parking lot will be marked with Ford signage.

Mr. Cascio commented that the Use Variance is for storage, not parking. Mr. Rabolli added that car storage is less intensive than for business use with employees working 9:00 a.m. – 5:00 p.m.

Mr. Jackson requested that the record reflect that this Application is unique to this situation. If granted, other tenants cannot store junk cars. Mr. Rabolli added that the Application has an expiration; it is a 2-year lease. The condition could include a grace period of 6 months. The Applicant is not looking for a term longer than the Amazing Savings' lease that expires in 2 ½ years. Any issues with the lease are between the Owner and the Tenant.

Mr. Montroy requested that the condition of no car deliveries between 7:00 p.m. and 5:00 a.m. be added to the record. The Owner and Tenant requested 10:00 p.m. – 5:00 a.m. Members of the Board agreed. The Owner requested that the condition be tied to the lease with All American Ford, not to the land.

The Resolution will stipulate All American Ford only; no repairs, maintenance, storage of auto related materials, customers, structures or canopies. Functioning, operating licensed, insured vehicles, leased returns and new cards only.

There were no further questions or comments from the Board.

Mr. Rabolli stated that based upon the comments of the Board, the Applicant has demonstrated justification for a Use Variance and has demonstrated no substantial detriment to the Public good incorporating all the factors that were discussed.

A motion to approve with stipulations was made by Mr. Cannava, seconded by Mr. Montroy. A roll call vote revealed 5 aye votes by M. Calijone, Mr. Cannava, Mr. Jackson, Mr. Montroy, and Mr. Rabolli.

Mr. Rabolli stated that the Application was approved and explained the process with regard to Resolution; memorialization, notice to the public, and appeal.

3. 2019 BOARD OF ADJUSTMENT ANNUAL REPORT

Carried from February 19, 2020. Mr. Rabolli stated that Mr. Calijone's Report, although not normal procedure, is going to be included as an Appendix to the Annual Report to the Council, copy to the Planning Board.

Mr. Cascio stated that he sent the Annual Report out in January, no requests for changes were received. Mr. Calijone referenced the EIS Report in the C200 Conservation Zone being not required, and proposed that it be required based on the environment. Further discussion took place with examples given and it was agreed upon to leave it to the discretion of the Board at the time of a hearing. Mr. Rabolli asked to have paragraph 6 stricken from the report.

Mr. Cascio will finalize the Annual Report, submit it to the Mayor and Council, including an Appendix by Member Stephen Calijone for their consideration, cc: The Planning Board.

A motion to move out of Work Session and Adjourn was made by Mr. Montroy, seconded by Mr. Cannava. All voted in favor. The meeting adjourned at 9:00 p.m.

These minutes were prepared by Sylvia Gerou, Zoning Board Recording Secretary. The minutes were provided to the Board of Adjustment on May 29, 2020 for approval at the Regular Meeting to be held on June 3, 2020.