

A **special** meeting of the Board of Adjustment of the Township of Roxbury was held on Monday, April 28, 2022, at **7:00 p.m.** in the Municipal Building at 1715 Route 46, Ledgewood, NJ after a salute to the flag Dr. Kennedy, Chairman read the “Open Public Meetings Act”

BOARD MEMBERS PRESENT

Ms. Dawson, Mr. Overman, Mr. Furey, Ms. Dargel, and Dr. Kennedy.

ABSENT: Mr. Klein and Ms. Robortaccio

PROFESSIONAL STAFF

Mr. Vitale, Esq. (*conflict counsel in for Mr. Wiener on Sanchez application*)

Ms. Alyse Hubbard, Esq.

Mr. Russell Stern, P.P.

Mr. Mark Kataryniak, PE, PTOE

APPLICATIONS:

ZBA-22-002 SANCHEZ, Final Site Plan for property located at 5 Crystal Court, Ledgewood, Block 9603, Lot 8.01 in a B-2 zone.

Mr. James Polles, Esq. of Schenk Price, Smith and King located in Florham Park, NJ stepped forward to represent the Sanchez application. Mr. Polles gave the Board an overview of what Mr. Sanchez was requesting in his application. Mr. Polles went on to testify that the applicant is seeking Final Site Plan approval from the previously approved Preliminary Site Plan of January 14, 2019, concerning ZBA-18-011. Such preliminary approval granted a Use variance permitting an industrial maintenance storage building with a “C” height variance permitting the height of the building to be 30.4 feet and a “C” variance requesting a front yard setback. Mr. Polles stated the applicant was going to be seeking the same, except for some de minimis exceptions with regards to the following maximum FAR noting preliminary approval was .129 and existing is .135 where .20 is required and impervious coverage approval was 24.7% and existing is 25.7 % where 60% is the maximum. Certain parking setbacks were 10 feet from the front building, where 5 feet is provided additionally, materials with regards to the aggregation of certain parcels under the ownership of Mr. Sanchez notably the property closest Route 80 can avail itself to certain benefits of the zoning code where in Mr. Sanchez’s estimation the building could be a required height of 40 feet where the building is currently measuring 31.07 feet.

Mr. Polles stated having spoken with conflict counsel of the Board with regards to the submission of the Sanchez Final Site Plan application as well as with the applicants retained Engineer regarding the Township Planners review and Board Engineering review, specifically due to deviations from what was built on the site currently vs. the preliminary site plan approval that it would be appropriate to submit this as an Amended Preliminary Site Plan approval. Mr. Polles stated although that is not what was done this evening, but we do believe the application is appropriately situated as a Final Site Plan approval before the Board, noting the applicant did follow the Final Site Plan application related checklist in conjunction with the same for reasons stated in the legal notice, we do believe the deviations from the Preliminary Site Plan approval are de minimis and do not constitute a substantial change from what was preliminarily granted to what has been constructed on site currently. Never the less and again in candor to the Board so as not to unduly burden or delay the Board from hearing other applications, it was agreed upon that the best path forward would be to withdraw the Final Site Plan application and resubmit as an

Amended Preliminary Site Plan at which time the applicant will be seeking Final Site Plan approval for what is currently constructed and in addition, there will be certain other improvements that are envisioned for the site. In an effort towards the economy of the Board the applicant is willing to if it is the position of the Board to withdraw the current Final Site Plan application and submit as an Amended Preliminary/Final Site Plan approval which can be accomplished soon, no later than the middle of this summer, if not sooner.

Dr. Kennedy stated that after reviewing the application and reports by the Township Planner and the Board Engineer, he noticed significant deviation from the Preliminary Site Plan approval, while not is size, but in number. Dr. Kennedy opened it up to the Board members to see if they concur that the applicant should withdraw the Final Site Plan application and resubmit as an Amended Preliminary/Final Site Plan.

Ms. Dargel stated that based upon the fact that the Board professionals have recommended the resubmittal and that the applicant has reviewed the application where he also agrees a resubmittal should take place, then that is what the Board should agree to as well.

Ms. Dawson concurred with both Dr. Kennedy and Ms. Dargel's statements, noting there is too much deviation from the original plan approval.

Mr. Overman stated he concurred due to the fact there were too many items on the Final Site Plan checklist that were not addressed by the applicant.

Mr. Stern weighed in that he spoke with Mr. Sanchez and felt that there was a desire from him to install another building, but as the Board recalls the first building required a Use variance and then the Board will be able to better address the issue of the Crystal Court Road vacation, because the Board has not received an update regarding this matter.

Mr. Polles agreed with Mr. Stern's recommendation regarding the street vacation.

Mr. Polles went on testify that given the fact of the street vacation and previous testimony, he did not wish to belabor the Board any further and if it was the pleasure of the Board the applicant withdraw the Final Site Plan application, than he would consider a motion be made without prejudice and to seek an Amended Preliminary/Final Site Plan as to what is constructed currently and possibly a concurrent Amended Site Plan for an additional structure to be constructed on site.

Mr. Vitale, Esq. stated he felt it would be the proper motion at this time as it would expedite this matter to move forward.

Mr. Polles stated that the applicant will be re-noticing to make a clean and complete record.

Ms. Dargel made a motion to approve the Mr. Polles' request to withdraw the Sanchez Final Site Plan application without prejudice. Mr. Overman seconded the motion.

Roll call: Ms. Dargel, yes; Mr. Overman, yes; Ms. Dawson, yes; Mr. Furey, yes; Dr. Kennedy, yes.

ZBA-20-004 SPEICHER, Minor Subdivision, “D2” Variance for property located at 280 Old Ledgewood Road, Flanders, Block 9303, Lot 1, 3 & 4 in a B1-A zone.

Mr. Michael Selvaggi, Esq. of Lavery, Selvaggi, Abromitis, and Cohen stepped forward to represent Michael Speicher. Mr. Selvaggi went on to testify the property was before this Board in November 2020 where the meeting was conducted on Zoom and at that time an issue arose concerning a discrepancy between the municipal boundary line that Roxbury had for its municipality and Mt. Olive. Mr. Selvaggi stated it is important because the lots straddle both of those municipal lines. What ensued there after was an effort to try and resolve the issue and there were negotiations between the municipalities and a municipal boundary line was approved by both municipalities in January 2022. Once the municipal boundary line was determined, Mr. Speicher was then able to revise the plans to be in accordance with the municipal boundary line.

Mr. Selvaggi stated Mr. Speicher is before the Board seeking minor subdivision approval that will allow him to reconfigure the lots within the Roxbury municipality by consolidating them and additionally, Mr. Speicher is seeking Use variance relief for expansion of a pre-existing non-conforming use, and finally some bulk variance relief.

Mr. Selvaggi testified that through the consolidation of the lots, the lot in question is going to go from 66,733 square feet to 77,733 square feet. Since the building and most of the coverage is going to remain as is and right now the operation is about over 70% of lot/impervious coverage by adding more land by expanding the size of the lot coverage is going to be reduced to about 58% where 50% is allowed. There will be other site improvements proposed that will hopefully lead to a clean-up of the property and improve its efficiency. This property was originally approved in 1982 for George Mohr for approval to operate a construction company. Mr. Speicher purchased it, then in 2017 he received a zoning permit when his current tenant moved in which is STS Tire and that use had continued. Mr. Selvaggi stated that part of the application is to address some of the deficiencies in the way the site was operating.

Mr. Michael Speicher of 280 Old Ledgewood Road, Roxbury Township was sworn in by Ms. Hubbard.

Mr. Selvaggi asked Mr. Speicher if the address he provided in his swearing was the address of lots 1, 3 & 4 in Roxbury Township. Mr. Speicher replied, yes. Mr. Selvaggi asked Mr. Speicher if he owned the lots individually. Mr. Speicher replied, yes, he purchased them in 2006 from George Mohr. Mr. Selvaggi asked Mr. Speicher if he owned lots 16, 16.03, 19 and 20. Mr. Speicher replied, yes. Mr. Selvaggi asked Mr. Speicher if the properties are owned in a corporate name. Mr. Speicher replied, the 280 Old Ledgewood Road in a corporate name. Mr. Selvaggi asked Mr. Speicher how long he has owned the Mt. Olive Property. Mr. Speicher replied all the lots were purchased by the year 2015.

Ms. Dargel asked a question regarding the address, she noted that there was a house which did not have a number on it right next to the 280 Old Ledgewood Road property and there was a driveway that was numbered 282 Old Ledgewood Road. Mr. Speicher replied he believed that 282 Old Ledgewood Road is George Mohr’s home where he resides to this day.

Mr. Selvaggi asked Mr. Speicher what is currently going on at the Roxbury lots. Mr. Speicher replied he rents all of 280 Old Ledgewood Road to a service tire truck center that repairs and changes large truck tires, noting multiple trucks come onto the site during the day where tires are swapped outside and customer goes on there way and at the end of the

day they store all of the used tires that are going to go back for re-cap in trailers out back and all of the new tires they keep inside the building.

Mr. Selvaggi address the tenant receiving a municipal violation for outdoor storage of tires that was exacerbated during covid. Mr. Speicher replied he and the owner of the STS tire had multiple conversations during covid where the violation was at its peak and the owner stated he was having a hard time getting trailers to the site to pick up tires due to a driver shortage. Mr. Selvaggi stated that since then the owner of STS tire has done a great job cleaning up the site and each night the tires are placed into storage either in the building or in a trailer. Dr. Kennedy asked if the owner of STS tire would be speaking and taking questions from the Board. Mr. Speicher replied, he is intimately family with the situation and can answer any questions pertaining to STS's operation. Mr. Selvaggi stated the owner of STS tire plead guilty in municipal court and has paid a violation fee.

Mr. Selvaggi stated the owner of STS tires would like to bring in more trailers to increase storage capacity. Mr. Speicher stated the site plan is proposing three trailers and one sea-land container. Mr. Selvaggi asked how the tire swap part of the operation works. Mr. Speicher replied that STS tire is a nationwide company that own trailers which are stored at their headquarters in Bethlehem, PA, that then come to the Roxbury site and pick up full trailers and drop off the empty trailers. The full trailers go out to their Pennsylvania site where they are recapped.

Mr. Selvaggi asked about storage in the front of the building. Mr. Speicher replied that the area Mr. Selvaggi is speaking about will not be used for storage and will be used as a thru-way for truck traffic. Mr. Speicher noted he wanted that on the site plan because on the original site plan there was outside storage in front of the building and in the rear of the building, noting he did not want to lose the ability of the outdoor storage.

Mr. Selvaggi stated that this application before us is for a lot consolidation to clean up the block and lots and would there be any crossover in use. Mr. Speicher replied, no and his plan is to receive approval in Roxbury so the improvements can be made to correct the property and be in compliance. Immediately afterwards, an application submittal will be made to Mt. Olive to obtain site plan approval which would house his business. A building will be constructed, and it will be two separate properties divided by a fence with no co-mingling between the properties. Mr. Selvaggi asked Mr. Speicher if the Mt. Olive project will have its own access from Old Ledgewood Road in Mt. Olive. Mr. Speicher replied, yes.

Mr. Selvaggi stated that one of the concerns Mr. Stern raised was an area just west of the building where there is storage of rings. Mr. Speicher replied that the rings are up against the Old Ledgewood Road property in Roxbury. Mr. Speicher explained there is a concrete rack/pad that was built with the original building which was used to store parts and materials by George Mohr. Mr. Speicher stated he worked for Mr. Mohr as a kid and recalled how the rack/pad was used. Mr. Speicher explained the current condition of the rack/pad has a cover over it, kind of like a canopy. STS Tire started using it for steel rim storage. Mr. Selvaggi address the parking area and asked if it would be striped. Mr. Speicher replied, yes and in addition there will be pavement repairs. Mr. Selvaggi asked if there were going to be dry wells installed. Mr. Speicher replied, yes dry wells and new leader drains that will be tied into the building.

Mr. Selvaggi asked Mr. Speicher about the hours of operation for STS Tire, noting at time of permit approval the hours of operation were Monday – Friday from 7:00 am to 6:00 pm and Saturday 7:00 am to 12:00 pm. Mr. Selvaggi asked if these were still the hours.

Mr. Speicher replied, yes and there has been a slight increase in employees. Mr. Selvaggi asked if STS Tire would be doing any towing. Mr. Speicher replied, no.

Dr. Kennedy asked about the ingress to the property on Old Ledgewood Road where it is adjacent to the property Mr. Speicher has his business and how much truck traffic from Mr. Speicher's business on the Mt. Olive side goes thru the area. Mr. Speicher explained his business deals with site work contracting where he uses tractors, and all types of commercial equipment in and out of the site. Dr. Kennedy asked if there were a couple of trucks and hour. Mr. Speicher replied no, his staff goes out in the morning and returns later in the afternoon. Mr. Speicher replied 9 times out of 10 the employees come back empty. Dr. Kennedy remarked that the road is a bit narrow and asked Mr. Speicher if he felt there would be a bottleneck at times. Mr. Speicher replied that he can tell the Board from experience that he has been involved with the site since the 1980's and there have been no issues. Mr. Overmann remarked now there is a traffic light at the intersection. Mr. Speicher replied it is wonderful, because it really helps when trying to pull out onto Route 206.

Mr. Stern stated that should this Board approve this application and it should be included in the resolution that at the end of day tire storage shall take place daily. Mr. Speicher replied, the additional trailers on site will help a lot with the storage.

Ms. Dargel asked Mr. Speicher where he was proposing to put the container. Mr. Speicher replied directly behind the building.

Ms. Dargel asked Mr. Speicher to address the parking in front of the building and who would be parking there.

Mr. Speicher replied that STS Tire is the sole tenant, and its employees would be parking in those spaces. Mr. Speicher reminded the Board that the original site plan approval allowed for equipment and truck storage in front of the building as well as rear.

Mr. Furey asked Mr. Speicher how it was determined how many trailers were needed for tire storage. Mr. Speicher replied he spoke with the owner of STS Tire to make that determination. Mr. Furey then asked could the clean up of tires each night be placed as a condition of the lease. Mr. Speicher concurred. Mr. Furey asked Mr. Speicher if there were any needs on site that would make the site better. Mr. Speicher replied, he would like to pave the gravel area behind the building in lieu of leaving it as gravel.

There was no public present, so no motion was made to open to the public for questions or comments.

Ms. Hubbard swore in Mr. James Glasson of Civil Engineering Corporation located at 1 Cove Street, Budd Lake, NJ 07828. Mr. Glasson asked the Board to look at Exhibit A-1 which was a colorized version of sheet 3 of 8. Mr. Glasson went on to address the three lots associated with the application. The first lot is 1 block 9303 which is triangular in shape and is an unimproved lot that is made up of gravel and wooded areas that is 57,548 square feet which fronts the Route 80 corridor located in the B1-A zone. The second lot is lot 3 block 9303 which is 49, 713 square feet which has gravel that has encroached on lot 4 which will be addressed in further testimony. The third lot is which is the lot 4 block 9303 houses STS Tire is 66,775 with 150 feet of frontage on Old Ledgewood Road.

Mr. Glasson address the municipal boundary line, which was depicted as two read lines on Exhibit A-1, one line for Roxbury and one line for Mt. Olive. The way the lines run leaves a

gray area that did not hit either municipal boundary line. Mr. Glasson presented the subdivision plan to the Board which was a colorized version of sheet 4 of 8 labeled as Exhibit A-2 Mr. Glasson explained what the applicant is looking for in a boundary for lot 4 which would be adding a portion of lot 3 and an area of lot 1, which would make the new lot 4 area 77, 733 square feet.

Mr. Glasson went to address the green line on Exhibit A-2 which was not a municipal boundary line, but a municipal enforcement line, noting the two municipalities entered into an agreement.

Mr. Glasson went on to address Exhibit A-3 which is a sheet 5 of 8. Mr. Glasson explained the building that is currently on the lot is 96 feet wide x 60 feet deep and is conforming to all setbacks. The existing structure is 58, 015 square feet made up of 3 bays garages that take of 53,051 square feet with a first-floor office space of 464 square feet and above the first floor is a mezzanine area for part storage. The FAR is .09 which is conforming to the zone. The issue that currently exists is under the George Mohr site plan approval there was 58.5% impervious coverage, where because of additional gravel added over the years, the site has now expanded to 70% impervious coverage. Under the current proposed plan, we will remove the gravel that encroached upon the adjacent lot and have reconfigured the gravel area in the back. Additionally, stripping will be added along with a paved area that will square off the parking lot and eliminate gravel along the lot boundary and create a 5-foot buffer between lot 3 and lot 4. The installation of 7 regular sized parking spaces will be striped out along with 6 oversized parking spaces and 1 handicap spot. The existing pavement is 28,000 square feet and gravel area in the rear has been reduced to 10,000 square feet. Access to the site is thru an access road on the right-hand side of the property, noting it is difficult to see the building from the road due to the fact there is a large area of woods. There is a large, paved area which use to be a storage area associated with the former excavating company on site. There is an aisle way of about 15 foot wide. The applicant is proposing a 20 x 40 loading area in the rear of the building in front of one of the bay doors. There is also a septic bed on site and in the front, there is a well located under the parking lot in a manhole. There are overheard utilities from a pole that is located along the right-hand property line. There is an access easement that gives George Mohr the right to access the rear commercial portion of his property with the residential house in the front. Currently there are two dumpsters located in the front along with one trailer and in the back the applicant is proposing an 8 x 16 fenced dumpster area along with (3) 8 x 60 trailers. There is also a 200-foot power easement that runs through the property.

Mr. Glasson went on to address the 20 feet long x 10-foot-high rim storage rack which is depicted on the exhibit of turning movements and additional outside storage. The rack has a corrugated roof which expands off the side of the building and is an area where rims can be stored undercover. The area does not impair any traffic movements because it located on the concrete pad Mr. Speicher spoke of earlier. Mr. Glasson stated that a WB40 tractor trailer could easily maneuver around the area, but a WB60 may have some difficulty.

Mr. Glasson went on to testify to the reduction of impervious coverage on the lot due to the additional lot coverage. The proposed amount will be 58.12% where 50% is allowed, but under George Mohr's approval of 1983 the allowable impervious coverage was 58.55%.

Mr. Overmann asked a question regarding the western most lot and is it being utilized. Mr. Glasson replied there currently is bins and gravel on the lot. Mr. Glasson explained the lot is located with Mt. Olive but does have an access road on to the adjacent Roxbury

lot, but should this application be approved, the access will be removed, as Mr. Speicher intends to sell the lot.

Mr. Stern stated that as a condition of approval minor sub-division maps be submitted, lot line revision fees be paid, no outdoor storage of tires between the hours of 5:00 pm and 6:00 pm

Mr. Kataryniak requested copies of the final municipal enforcement boundary line agreement, updated plats, certification from the Morris County Soil Conservation District, Stormwater plan notes that pertain to soil logs, and leader elevation drawings on how they tie into the dry well.

Said application was carried to the May 9, 2022, meeting without further notification.

OLD BUSINESS: *None*

NEW BUSINESS:

OPEN TO THE PUBLIC:

*No discussion of any pending application.

Motion to adjourn at 9:02 pm

ZONING BOARD OF ADJUSTMENT
TOWNSHIP OF ROXBURY
Tracy Osetec, Board Secretary
April 28, 2022