

Minutes of August 4, 2016

1st: Lavan
 2nd: Vignola
 Approved: 8/18/16

The Regular Meeting of the Hazlet Township **Land Use Board** scheduled for August 4, 2016 was called to order at 7:30 PM with a Salute to the Flag followed by a Moment of Silent Prayer and a Reading of the Letter of Compliance.

ROLL CALL:

Present: Mr. Lavan, Deputy Mayor Kiley, Mr. Vignola, Mr. Solomeno, Mr. Sanfilippo, Mr. Grossman, Mr. Moore

Absent: Mayor Aagre, Mr. Byrne, Mr. Glackin, Mr. Tyler, Mr. Rooke, Mr. Mann

Professionals: Mr. Vella, Esq., Mr. Otto- CME, Mr. Rodriguez-CME, Mrs. Keegan

Motion: To approve the minutes of regular meeting July 21, 2016

Offered By: Grossman **Seconded By:** Solomeno

<u>ROLL CALL</u>	<u>YES</u>	<u>NO</u>	<u>AB</u>
Mr. Byrne	_____	_____	_____
Mr. Glackin	_____	_____	_____
Mr. Lavan	_____	_____	<u>X</u>
Mr. Tyler	<u>X</u>	_____	_____
Mr. Solomeno	_____	_____	_____
Mr. Vignola	_____	_____	_____
Mr. Rooke	<u>X</u>	_____	_____
Deputy Mayor Kiley	_____	_____	_____
Mayor Aagre	_____	_____	_____
Alt #1 Mr. Mann	_____	_____	<u>X</u>
Alt #2 Mr. Moore	_____	_____	_____
Alt #3 Mr. Grossman	<u>X</u>	_____	_____
Alt #4 Mr. Sanfilippo	<u>X</u>	_____	_____

Deputy Mayor Kiley recused for use variance hearing.

New Case # 16-09L: : Interstate Outdoor Advertising, 3206 Route 35; Block 217, Lots 6,7,8,9,9.01,10,11,12,13; BH zone. Applicant is seeking a use variance to install a two-sided, free standing 11 ft. x 36 ft. Electronic Digital Billboard. Applicant is seeking bulk variances for: sign height of 44 feet where 25 feet is permitted, sign dimensions of 396 square feet on each face where 100 feet is permitted and a 5 ft. front setback where 50 ft. is required. Pre-existing non conformities are: lot size is 38,813 sq. ft.

where 40,000 sq. ft. is required, lot depth is 165 ft. where 200 ft. is required, front yard setback is 1.5 ft. where 50 ft. is required and side yard setback is 10.2 ft. where 20 ft. is required.

Mr. Vella: Marked exhibits A-1 as site plan of lots 6-13 dated 5/28/16, A-2 as plan of survey dated 4/16/16, A-3 notice of approval from State of New Jersey dated 5/23/16 and A-4 as letter of no interest from Monmouth County Planning Board. He explained that there are two applications to be heard tonight, giving each approximately an hour and twenty minutes to present.

Mr. Gale: Introduced himself as attorney for the applicant. He explained that outdoor advertising signs are not permitted in Hazlet, therefore a use variance is required.

Attorney Vella swearing in Mr. Thomas Grabowski, planner and surveyor.

Mr. Gale: Asked Mr. Grabowski to state his qualifications and explain the specifics of the subject property.

Mr. Grabowski: Stated he is a licensed planner and surveyor since 1977. He explained the subject property is between Maple Ave. and Hazlet Ave. on the southbound side of Route 35 where Cerlione's Garden Equipment is. The property is 0.89 acres. There is an existing 27' high sign pole which would be removed and replaced with signage on the building if the digital billboard is approved. The digital sign is 11' x 36' (792 sq. ft.) and would be 44' above grade. The net number of parking spaces will remain unchanged. The pre-existing non-conformities are not changed or exacerbated.

Mr. Vella: Questioned whether Mr. Grabowski or the applicant determined where the sign would be located on the property.

Mr. Grabowski: Indicated that the applicant determined where the sign was to be located.

Mr. Moore: Questioned whether he thought there was a better place for the sign such as behind the building where the storage shed and fence are.

Mr. Grabowski: Indicated he thought the sign needed to be close to the highway for visibility but there were other people more qualified to answer that question.

Mr. Vignola: Questioned whether the sign was lit and what colors there would be.

Mr. Grabowski: Explained it is a digital sign so there are no lights shining on it but there is light associated with the sign internally.

Mr. Lavan: Asked whether this sign was similar to the ones on the Parkway.

Mr. Grabowski: Indicated that the signs are somewhat standardized so it would be similar.

Mr. Solomeno: Questioned the sign protruding over a wetlands buffer.

Mr. Grabowski: Stated that the pole is outside of the wetlands and buffer, only part of the sign overhangs the wetlands area 44 feet in the air. It does not disturb the wetlands or buffer.

Mr. Otto: Explained that it would be DEP's final decision and questioned whether an LOI determination had been applied for yet.

Mr. Grabowski: Answered that it was in the process but had not been applied for.

Mr. Solomeno: Stated that if this application were to be approved, it would be contingent upon obtaining those DEP permits.

Mr. Gale: Agreed or a letter of non-applicability if the DEP determines there is not a permit needed.

Mr. Vella: Explained the DEP will make the final call and our concern is the use of the site and the location of the sign on the site which requires cutting back some large trees.

Mr. Solomeno: Questioned whether the sign intruded onto any adjoining properties.

Mr. Grabowski: Indicated the sign is contained within the subject property line.

Mr. Otto: Questioned how high the trees are and how much would have to be cut back in order to make the sign visible.

Mr. Grabowski: Indicated there would be other testimony to that point. He also indicated there would be bollards around the sign pole so that customers using the parking lot would be able to avoid coming into contact with it.

Attorney Vella swearing in Jeffrey Gerber, Interstate Outdoor Advertising.

Mr. Gale: Asked Mr. Gerber to state his qualifications.

Mr. Gerber: Explained he is the president of business development and the chief operating officer for Interstate Outdoor Advertising. He was a deputy attorney general

of New Jersey and counsel to the New Jersey Department of Transportation assigned to the Outdoor Advertising section.

Mr. Gale: Asked Mr. Gerber if the location on a state highway would put it under the jurisdiction of the Department of Transportation and if they have a governing statute that helps determine the location for signs.

Mr. Gerber: Answered that yes it would be under DOT jurisdiction and that they have a set of regulations that determines where signs may be placed in the state. Signs have to be in a commercial or industrial zone, which this is, and was part of the decision to choose this location. The site is on a major transportation corridor and does not impact any residential areas.

Mr. Gale: Questioned whether the state controls the maximum size of the sign and distances between signs.

Mr. Gerber: Indicated maximum sign size is 1000 square feet per side or 2000 square feet per location. The proposed sign is 396 square feet per side. This sign is the smallest one they make that is still economically viable as an outdoor advertising sign. The signs must be spaced 300 feet apart.

Mr. Gale: Asked Mr. Gerber to explain what a digital sign is and how it works.

Mr. Gerber: Stated that digital signs are the new technology in outdoor advertising because they are clean, sharp and effective. The benefit to the municipality is the ability to change messages in seconds via computer or by contacting Interstate. It allows emergency alerts to be communicated within minutes to the public. In the event of an emergency, all commercial messaging on the sign would cease and the emergency message would take over until the emergency subsides. Message protocols and formats would be set up. Interstate Outdoor Advertising would design any special event and non-emergency messages for the township free of charge. Signs cannot change messages faster than every 8 seconds and it cannot flash or have motion. The brightness powers down at night so the visual impact does not extend beyond Route 35. The sign will be built on a steel pole with safety bollards around it.

Mr. Gale: Asked Mr. Gerber to explain how the applicant determined the sign size, height and setback from the roadway and the colors associated with the digital portion of the size.

Mr. Gerber: Indicated they design the height of the sign only as high as it needs to be to be seen by passing motorists, which they determined to be 44 feet. A 5 foot setback is proposed so that the sign has impact on the Route 35 corridor. The further back it is moved, the higher the sign needs to be to be seen from the roadway and more trees would need to be cut back and/or removed. A digital sign can accommodate any color,

similar to vinyl billboards, just in digital format. The sign would be tied in to a transformer on Route 35 for power and runs on 100 amp service.

Mr. Gale: Questioned whether there was an operational or maintenance program associated with the sign.

Mr. Gerber: Indicated there is very little maintenance required once the sign is built. The sign pole will need to be painted once every 10 years and occasionally an LED will burn out on the sign but that is very rare. The digital faces are expected to be operational for 8-10 years with no maintenance. There are cameras on the sign which are monitored 24/7 so if there is a performance issue, the sign would automatically shut off.

Mr. Gale: Pointed out that there is no additional traffic generated by this application and that the applicant will upgrade the existing signage on the property.

Mr. Gerber: Explained that they will replace the pole sign with a new backlit sign on the building.

Mr. Grossman: Asked if the DOT limits the amount of signs that can be put on a highway.

Mr. Gerber: Indicated that signs must be spaced 300 feet apart and are not allowed on conservation, agricultural or residential land uses.

Mr. Moore: Questioned how the applicant decided which side of the highway to place the sign.

Mr. Gerber: Explained that they identified several locations along the highway that made sense and this property owner was interested in having the sign on the property.

Mr. Solomano: Questioned how much of the sign would be blocked if no trees were cut back.

Mr. Gerber: Indicated it would block a large portion of the sign and the trees would be trimmed back approximately 36 feet. If any of the trees died, they would replace them.

Mr. Solomano: Questioned how the message transitions every 8 seconds on the sign.

Mr. Gerber: Explained it is instantaneous with no flash or pop. It changes electronically.

Mr. Solomano: Questioned where the nearest residential area to this property was.

Mr. Gerber: Indicated there was a residential area to the north and east of the property. There will be no impact to these areas. The conditions have been surveyed and the light on the sign comes from the front only, the sides are dark. The sign cannot exceed 0.3 foot candles at 250 feet.

Mr. Vella: Marked exhibit A-5, handout showing location of proposed sign.

Mr. Gerber: Explained that the picture shows the proposed location and shape of the sign directs it towards Route 35 and there is no visibility to the residential neighborhood.

Mr. Otto: Asked whether the sign is proposed to be lit 24 hours a day.

Mr. Gerber: Answered that it operates 24 hours a day, 7 days a week which is the typical operation for these signs as emergencies can happen anytime.

Mr. Otto: Indicated he has seen resolutions that limit the hours.

Mr. Gerber: Indicated he had not seen that in the cases he has been involved in.

Mr. Vella: Stated he had seen a board limit the hours of a sign on Route 35 starting at 6 am until 11 or 12 pm.

Mr. Gerber: Agreed that if there was a problem with impacting a residential neighborhood, that could be addressed but he does not anticipate a problem based on the location of the sign.

Mr. Vella: Questioned whether the trees had been in bloom at the time they took the calculations for the location of the sign.

Mr. Gerber: Indicated they did it multiple times, some when they were in bloom and some when they were not.

Mr. Vella: Questioned whether they had looked at sliding the sign location over closer to the building so that less trees would need to be cut back.

Mr. Gerber: Indicated the sign could not be on the other side of the building because it would hang over adjacent property. He stated that they will comply with all DEP regulations based on location. If the sign was moved, they would still have to trim trees and based on where the driveway is, this was the best location for it.

Mr. Moore: Questioned whether the sign would block the Staples/ShopRite sign coming down Route 35.

Mr. Gerber: Indicated there would be no impact to the shopping plaza because the property is low and ascends as you get closer to the traffic light.

Mr. Solomeno: Questioned whether the sign was located in the site triangle for the existing driveway.

Mr. Gerber: Indicated it was not in the right of way and that the engineer could provide more information.

Mr. Solomeno: Asked whether the sign goes black every 8 seconds when the image changes.

Mr. Gerber: Indicated it does not go black, it just changes.

Mr. Solomeno: Asked if we had ever approved this type of billboard before.

Mr. Vella: Indicated this was the first one, it is a new technology that is coming around to the townships.

Mr. Solomeno: Asked how tall their average billboard is and how they are site dependent.

Mr. Gerber: Responded that it depends upon the geography of the roadway, the elevations of the land and the obstructions around the roadway. They don't want to build them higher than they need to.

Mr. Solomeno: Asked Mr. Otto if he was concerned about the height of the proposed sign.

Mr. Otto: Indicated he was not and it was standard for this type of sign.

Mr. Gale: Asked Mr. Otto if the site triangle issue raised in his letter had been sufficiently clarified or if testimony was required.

Mr. Otto: Responded that he needed to see the site triangle shown on the plans and it is a condition of approval so no testimony required. He also asked whether they would consolidate the lots.

Mr. Gale: Indicated he did not have the authority to do that but if the lots are all undersized, the tax assessor can do that.

Mr. Otto: Indicated that we would consolidate the lots at the owner's request.

Attorney Vella swearing in Mr. John McDonough, planner.

Mr. Vella: Marked exhibit A-6 as planner's handout-4 pages.

Mr. Gale: Indicated that Mr. McDonough had been retained by the applicant to provide an overview of bulk and use variances generated by this application.

Mr. McDonough: He explained that the variances being sought are necessary to effectuate the use. The sign needs to be visible to be effective. The benefits outweigh the negative. The nearest house is 400 feet away and separated by a mature woodland with trees that are 60 feet high. Even with tree trimming, the majority of the woodland will remain to buffer the residential area. The size and location of the sign are reconcilable under the C2 balancing test. The height variance requested is necessary so that the sign is visible over obstructions on the roadway. There is no added density or blocking of scenic views.

Mr. Gale: Asked Mr. McDonough to characterize the existing signage.

Mr. McDonough: Explained there are multiple signs on the existing pole. The applicant will consolidate the signage into one wall mounted sign on the building. The sign will be cleaner, neater and identifies the entrance. He thinks this is an appropriate location for the proposed digital sign since it is a DOT approved site meeting all their regulations and meets the spacing standard between signs. This is a modernization of this type of display. The site is particularly suited for this use being a commercial location along a highway with good buffering. The project promotes the public welfare through its advertising of beneficial uses and prevention of public panic through its ability to broadcast emergency messaging. The visual impact is buffered from the residential land use and is a benign land use not generating any heat, noise or vibration. Studies have shown there is no distraction to drivers on the roadway. It is an appropriate land use in this location not causing a substantial departure from the zoning plan.

Mr. Solomeno: Questioned what studies Mr. McDonough was referring to regarding distraction of drivers.

Mr. McDonough: Responded that the USDOT has put out a study regarding billboards and driver distraction and there are other studies done by the Outdoor Advertising Agency.

Mr. Vella: Explained that the applicant would have to comply with NJ Administrative code regulating the sign restricting the light and message change.

Mr. Solomeno: Questioned what the maximum letter height of the type on the sign would be.

Mr. Gerber: Responded that there is no maximum but the advertisers want their copy to be easily read so that regulates itself. He has never seen an issue with letter height becoming a safety issue. The Federal Highway Administration did not find any negative traffic safety impacts from digital signs.

Mr. Rodriguez: Asked Mr. McDonough to clarify his testimony regarding intensification of development on the site and "modernization" as a special reason for the use variance when there is no sign existing.

Mr. McDonough: Explained that the standard is if it is a trigger for additional density or activity at the site. It is a benign business from a functional standpoint. He explained that the digital display has become customary and is an appropriate modernization of display for this land use.

Mr. Rodriguez: Questioned what makes this site more particularly suitable than any other site on Route 35.

Mr. McDonough: Explained that it meets the separation requirements between billboards and the business district widens in this area so that there is less impact on residential areas. The condition of the property also makes it a relatively easy retrofit.

Mr. Solomeno: Questioned whether billboards in general would be considered a negative impact on the community in terms of its aesthetic.

Mr. McDonough: Explained that state regulations recognize billboards as a necessary land use that serves an important economic function. It is his opinion that this site strikes a balance between the location along the highway and its impact on surrounding neighborhoods.

Vice Chairman Lavan asked for public comments. No one spoke.

Mr. Vella: Explained the conditions required if the application is approved including; removing the existing free standing sign, obtaining LOI to be provided to land use board, meeting all conditions in CME report dated 6/22/16. The applicant is to coordinate with the police chief, head of emergency management and business administrator to coordinate a method to post emergency or public event messages.

Offered By: Moore **Seconded By:** Vignola

ROLL CALL	YES	NO	AB
Mr. Byrne	_____	_____	_____
Mr. Glackin	_____	_____	_____

Mr. Lavan	<u> X </u>	<u> </u>	<u> </u>
Mr. Tyler	<u> </u>	<u> </u>	<u> </u>
Mr. Solomeno	<u> X </u>	<u> </u>	<u> </u>
Mr. Vignola	<u> X </u>	<u> </u>	<u> </u>
Mr. Rooke	<u> </u>	<u> </u>	<u> </u>
Deputy Mayor Kiley	<u> </u>	<u> </u>	<u> </u>
Mayor Aagre	<u> </u>	<u> </u>	<u> </u>
Alt #1 Mr.Mann	<u> </u>	<u> </u>	<u> </u>
Alt #2 Mr. Moore	<u> X </u>	<u> </u>	<u> </u>
Alt #3 Mr. Grossman	<u> X </u>	<u> </u>	<u> </u>
Alt #4 Mr. Sanfilippo	<u> X </u>	<u> </u>	<u> </u>

Motion passes.

New Case #16-06L: Cars on 35 LLC/New Jersey's Finest Motors, 3228 Route 35, Block 217, Lots 5 & 14, BH zone. Applicant is seeking use and bulk variances to construct a new 12'x15' building and parking spaces for pre-owned auto sales. Lot size is 13,714 sq. ft. where 40,000 sq. ft. is required, lot depth is 173 ft. where 200 ft. is required, lot frontage is 81.92 ft. where 150 ft. is required and lot acreage is 0.315 acres where 0.918 acres is required.

Mr. Vella: Explained that this is a use variance application for a non-permitted use on the site and requires a minimum of five votes for approval. Marked exhibit A-1 as plans prepared by Marc Leber dated 2/19/16, A-2 as architectural plans prepared by Anthony Conduras dated 2/15/16, A-3 as survey of Lot 5&14, Block 217 prepared by John Lutz dated 11/18/15 and LUB-1 as CME's report of 6/22/16.

Mr. Mirabelli: Introduced himself as attorney for applicant and explained the application is to demolish an existing vacant building and erect a smaller building and operate an auto dealership selling pre-owned vehicles.

Attorney Vella swearing in Joseph Guido, owner of the property.

Mr. Guido: Explained he has been the owner of the property since 2007 and had attempted to get tenants for the property to no avail. The property had been flooding due to a sewer issue which is now fixed.

Attorney Vella swearing in Chris Erato, member of the LLC.

Mr. Mirabelli: Asked Mr. Erato to explain the type of business that will be operated at the site.

Mr. Erato: Explained they will be selling pre-owned luxury cars priced between \$18,000 and \$ 50,000. The hours of operation would be 10 am to 7 pm Monday

through Saturday. There will be 1-2 employees over two shifts. There will be approximately 18-20 cars for sale on the lot at a time. There are 22 parking spaces total. Employees would utilize the vehicles that are for sale to get to and from work so additional parking is not necessary.

Mr. Mirabelli: Questioned how cars would be moved in and out of the lot.

Mr. Erato: Explained that cars are parked one behind the other so it would not be a problem to maneuver cars around. The cars will be driven to the site, not brought on a car carrier.

Mr. Otto: Asked if they would agree to a condition of the approval that there are to be no car carrier deliveries.

Mr. Erato: Agreed.

Mr. Mirabelli: Stated they would also agree to the provision that there would be no automotive repairs on site.

Mr. Rodriguez: Questioned how they obtain the cars that will be for sale.

Mr. Erato: Explained they purchase them from auto auctions.

Mr. Rodriguez: Asked whether any of the cars will be displayed along the highway frontage.

Mr. Erato: Indicated they will be kept towards the back of the property.

Attorney Vella swearing in Marc Leber, engineer and planner.

Mr. Mirabelli: Asked Mr. Leber to give an overview of the existing site.

Mr. Vella: Marked exhibit A-4 as mounted colored rendering of site plan and A-5 as handout consisting of five pictures.

Mr. Leber: Confirmed the address as 3228 Route 35; Block 217, Lots 5 & 14 which is located in the BH zone between Maple Drive and Hazlet Avenue. The building has been vacant for approximately 9 years. There are wetlands in the rear of the property and the developable area is limited to the existing pavement. Explained the locations and content of each picture. Pre-owned vehicle sales are not permitted in any zone, therefore the use variance is required. There are 22 parking spaces, 3 customer parking spaces, one of which is ADA accessible. The new office will be 12' x 15' in the front of the property. It will contain two desks and a restroom.

Mr. Vella: Marked exhibit A-6 as floor plan of proposed building.

Mr. Mirabelli: Asked how the building will be heated and air conditioned.

Mr. Leber: Explained that it would have a wall mounted unit on the rear of the building. Clarified the pre-existing non-conformities such as lot size, width, depth and frontage. The applicant is asking for a variance for the setback of the new building at 9.1 feet.

Mr. Moore: Questioned whether the building would be built or was pre-fabricated.

Mr. Leber: Indicated it would be a pre-fabricated building that would be hooked up to water, electric and sewer. Reviewed what was allowed in the BH zone. This application would remove a vacant, dilapidated building. It will have extremely limited traffic, no noise and no environmental impacts. There will be no tree removal, no increase to impervious surfaces and the site will be well maintained. The uses surrounding this site are compatible with what is proposed. Special reasons for granting the variance include its lack of impact to the surrounding area, its economic impact and source of employment and redeveloping an underutilized lot. It is not an inherently beneficial use but it is a very practical use considering the limitations of the site. The bulk variances include front yard setback, 9x18 foot parking stalls and number of customer parking stalls. Waivers include building aesthetics, buffering to parking lot, rear lot line setback, separate entrance and exit, front setback from building and shade trees. Evergreens will be planted along the front.

Mr. Vella: Questioned whether the lot would have gates or fencing in front in order to lock up the cars at night.

Mr. Leber: Answered that there is not fence in the front of the property and the only change to the existing fence will be removing the vines and brush. There are no plans for any gates. He feels that there are no negative criteria associated with this application.

Mr. Moore: Asked what the plans were for the asphalt and what signage is proposed.

Mr. Leber: Indicated it will be resealed and the area where the building is removed will be repaved. There is one pylon sign proposed which requires a setback variance.

Mr. Moore: Asked whether there would be additional lighting for security purposes.

Mr. Leber: Indicated a lighting plan had been submitted showing two new fixtures with LED lights. The lights will be on a timer, they will go off at 9 pm.

Mr. Guido: Indicated they will have cameras on the lot but no other security measures. They would consider putting motion detector lights in.

Mr. Leber: Questioned whether the conservation easement was necessary.

Mr. Otto: Explained that the board can consider applying a conservation easement to the property.

Mr. Mirabelli: Indicated if it is required by the board, the applicant will provide it. The wetlands area is fenced off already and will not be disturbed.

Mr. Rodriguez: Asked Mr. Leber to provide further testimony regarding reconciling the fact that the zoning ordinance does not allow used car dealerships.

Mr. Leber: Did not think that it was expressly prohibited, only that it did not allow for it.

Mr. Rodriguez: Indicated that it was expressly prohibited.

Mr. Otto: Questioned whether they will meet all of the technical review comments.

Mr. Leber: Assured the board that this will be a lot with late model, higher end luxury vehicles.

Mr. Vella: Asked whether they would agree to a provision that if the price point of the cars went under \$15,000 they would have to come back for a use variance.

Mr. Mirabelli: Agreed that the applicant would.

Mr. Moore: Questioned whether sales were by appointment only.

Mr. Erato: Indicated that a lot of their business comes from the internet so many would be by appointment. They do not expect much drive by traffic.

Vice Chairman Lavan asked for public comments. No one spoke.

Offered By: Solomeno **Seconded By:** Moore

ROLL CALL	YES	NO	AB
Mr. Byrne	_____	_____	_____
Mr. Glackin	_____	_____	_____
Mr. Lavan	<u>X</u>	_____	_____

Mr. Tyler	_____	_____	_____
Mr. Solomeno	X	_____	_____
Mr. Vignola	X	_____	_____
Mr. Rooke	_____	_____	_____
Deputy Mayor Kiley	_____	_____	_____
Mayor Aagre	_____	_____	_____
Alt #1 Mr.Mann	_____	_____	_____
Alt #2 Mr. Moore	X	_____	_____
Alt #3 Mr. Grossman	X	_____	_____
Alt #4 Mr. Sanfilippo	X	_____	_____

Motion passes.

Citizen Hearing:

Offered By: Moore

Seconded By: Lavan

No one spoke.

Motion to Adjourn:

Offered By: Moore

Seconded By: Lavan

VOICE VOTE: Yes

Next Meeting: August 21, 2016

Respectfully submitted: Laura McPeek