

ZONING BOARD OF ADJUSTMENT
VILLAGE OF RIDGEFIELD PARK
Bergen County, NJ

Minutes of Regular Meeting
December 20, 2005

The Chairman, Mr. Cathcart, called the meeting to order at 8:00 p.m. in the Municipal Building.

The Chairman announced that this meeting is being held in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq., notice of which was published in the Record on the 23rd day of December 2004.

Roll Call: Present: Messrs. Cathcart, Morton, DellaFave, MacNeill, & Ms. Perrotta

A motion was made to accept the minutes of the November 15, 2005, meeting as prepared; all in favor with the exception of Mr. McCormack and Mr. MacNeill, who abstained.

Correspondence:

Letter from New Jersey Turnpike Authority Re: Coastal Outdoor Advertising

The Chairman read the Rules of Procedure.

The Chairman announced that there were four applications to be heard at the meeting as well as two resolutions from the previous month to be read.

Case no. 1375 – AOUISSE – 8 Second Street - Block 11/Lot 12

Case no. 1376 – COASTAL OUTDOOR ADVERTISING – 40 Challenger Road – Block 40.01/Lot 1.01

Case no. 1377 – POM SIN OM – 4 Mt. Vernon Street – Block 64/Lot 19

Case no. 1378 – TAPIA – 46 Hazelton Street, Block 25/Lot 17

Case no. 1375 - Aouisse – 8 Second Street – Block 11/Lot 12.

An application for a variance to build an additional bedroom to the one-family dwelling at 8 Second Street.

The applicants, Hamid and Najat Aouisse, were sworn in, as was Robert Mencarini, AIA. The Board was furnished with proof of taxes paid, service and publication. The applicant would like to build an additional bedroom on the second floor. There will be no change to the footprint of the house.

Robert Mencarini, Architect, was sworn in at this time. Mr. Mencarini said it is a simple addition over the one story part of the house. It is zone I-1 and Mr. Russell, the zoning officer, said a variance would be needed for lot area of the front yard setback, second yard setback and rear yard setback. The same footprint will be used with only one

difference; there will be a post coming down at the corner of the deck (less than 1 square foot on the first level). This application was set down for the work session.

Case No. 1376 - Coastal Outdoor Advertising – the attorney was not present yet and this application was put last on the agenda.

Case No. 1377 – Pom Sin Om, 4 Mt. Vernon Street, Block 64, Lot 19. An application for a use variance to use the former service station to improve the facility and use as a valet car wash or a detailing center. The Board was furnished proof of taxes paid, service and publication.

The applicants, Paul Kim and Pom Sin Om, were sworn in as was Brian Intindola, Al Zaccone, AIA, and Edmund McCann, Esq. Mr. McCann explained that Dr. Kim owns the property and intends to lease it to Ms. Om, who intends to operate the facility as a valet service for the cars. Cars would be dropped off or picked up for service and they would operate the business as a family business. Mr. Intindola, a traffic engineer, was called at this time to testify as to the use of the property and the traffic and the impact. Mr. Intindola gave his credentials and was accepted as a qualified expert.

Mr. Intindola said he looked at the intersection, which is located on a county road and advised it was an interesting intersection. Mr. Intindola referred to the exhibit used for this application. The prior use was a service station and the applicant would like to operate a car wash at this location. In order to get a handle on the future use of this property, Mr. Intindola observed hand carwashes near his office to see how long it takes for a hand carwash to be completed. Typically, it takes about 15 minutes for a detailing. He estimates that at a busier time it would be approximately 16 cars in and 16 cars out on a Saturday when they are fully booked. This will be a valet car wash where the cars would either be dropped off directly or picked up from the residence and then brought to the site to be detailed and then returned to the owner. They do not anticipate a lot of draw from off street, as this business is similar to an appointment driven use such as a hairdresser for example. There is going to be an intake tunnel so to speak but it is not going to be an automated tunnel, it will be all hand detail. The architect can show how this would be treated. It will come back around the side street and then loop back around for a potential queue (queuing exhibit was used). This site will generate lesser trips than a service station. The streetscape will be improved at the intersection with this use. The traffic to this site can be managed through appointments. It is not a typical queuing situation of an automated carwash. Mr. Intindola felt that the use of a carwash as compared to the current approved use as a service station would generate about 50 trips in and 50 trips out on a peak hour basis. This use would generate 16 trips in and 16 trips out.

The applicant was asked about potential parking of cars on the curb. At this point, Albert Zaccone, AIA, testified on behalf of the applicant. Mr. Zaccone said that as far as the line of cars pulling in from the street on Paulison Avenue only, they propose to close the entrance along Mt. Vernon Street to alleviate the traffic. They don't want cars lining up on Mt. Vernon; they want them only pulling in along Paulison. The current situation with respect to access and egress is that currently there is only curbing right at the curb

where Paulison runs into Mt. Vernon Street. Up Paulison for a good 70 feet or so, there is no curb at all. In the past, people pulled up the gas station anywhere along that distance. They want to eliminate the cars on Mt. Vernon Street. It is a hand car wash and will be very much controlled as opposed to a gas station. They are looking to get rid of the curbing and only having one curb cut on Paulison and control it only from Paulison. Nothing will be pulling in from Mt. Vernon. Most of the cars will be picked up and brought over coming down Paulison into the lot and then lined up and brought in a one-way entrance at the south end of the building and exiting out the west side of the building. They will enter and leave through Paulison. It is anticipated that some cars may be dropped off by their owners who will return when the car is finished. The hand car wash takes about 15 minutes and the detailing will depend upon the service requested by the customer. There will be no painting or bodywork done at the premises, only cleaning. Cars will be washed and polished and then more intensive detailing if requested. Approximately 11 average sized-cars could be on the property itself at any one time. The flow of cars in the wash and dry area is not going to be interrupted. The detailing section will be separate and only so many of them can be done in one bay. Those cars would be kept in a bay. If a car is not picked up immediately, there are some areas where the car can be contained on the outside. It is anticipated that there are excess areas to keep the cars and store them if necessary.

They really want to discourage people who do not have an appointment. The photograph referred to by the traffic engineer is being marked as A1 and the diagram referred to is A2. Mr. Intindola feels that the exiting movement aligns with the striping on the road and there should be no need to restrict the turning movement if someone wants to cross Paulison and then go to Railroad. The traffic movement is light enough that it does not warrant any special turning.

The majority of the business will be appointment only. If there is an opening, they will accommodate someone without a business. The applicant said that they want to have a reputation as quality work rather than a fast carwash and would like to discourage people who do not have an appointment. They prefer appointments so they can do high quality work to keep up that status as high quality cleaning. If there were a traffic back up, it would go up Paulison. They don't want any backup on Mt. Vernon Street. There are no residential areas for approximately 1-1 1/2 blocks away, which is approximately 150 feet. The case was opened to the public. No one appeared. The case was set down for the work session.

Case no. 1378 - TAPIA – 46 Hazelton Street, Block 25, Lot 17

An application for a use variance to turn an existing two family home into a one family home with an extension. The Board was furnished with proof of taxes paid, service and publication. The applicants, Dennys Tapia and Ana Tapia were sworn in. It is a legal two family and they would like to convert it to a one family with an extension. The left setback with the extension would be 8.62 and the right side would be 2.37. There is only 5,000 feet and 7,500 sq. ft are needed for a one family. The extension itself would be approximately 18 x 37. They are selling the house to a friend. It is currently a two-story building and they plan to add another extension, which basically doubles the size of the

house. The lot is 5,000 sq. ft. and they would be covering under 30%. The house would probably be about 31 feet high.

The Board feels there is not enough information. There are no conceptual drawings of the house. There are no measurements. The Board suggested that the applicant get a copy of the architect's drawing to be submitted at the next meeting in order to give the Board a better feel of the height, etc. Since the house will virtually be doubled, a more complete rendering needs to be submitted before the Board can make a decision. A complete set of drawings showing everything as to area, height, what the height will look like, how close is it to the other houses, etc., is necessary before the Board can render a decision. The applicant does not need to readvertise.

The case was opened to the public. John R. Comiso (60 River Road, Bogota, property owner of adjacent property within 200') was sworn in. He would like to get more information before he makes a decision.

Victoria Osborne (45 Gordon Street, property owner within 200') was sworn in. Ms. Osborne stated that she looked at the plans and it appears that the house will be doubled in size. To her, it looks like it will be a McMansion. She lives in the back and is afraid that when she looks out her window, all she will see is house. She also questions if there is sufficient room for a driveway. There is a utility pole where the driveway is right now. She will now have an obstructed view if this application is granted. She feels they already live in a house too big for the neighborhood and doesn't want to see anyone change the character of the neighborhood. The house is vacant right now and she would prefer to see a smaller two family than a larger one family home. Ridgefield Park is supposed to be a quaint community. She does not want to see all concrete. This house is being built to be sold. The applicant was informed that plans should be submitted as soon as possible.

Outside 200' in favor – no one appeared

Outside 200' against – no one appeared.

At 8:59 p.m. the Board discussed the first case on the agenda - #1375 Aouisse, 8 Second Street. There are no problems with this application. A motion was made by Mr. DellaFave and seconded by Ms. Perrotta approving this application. All were in favor of this motion. The Board attorney will memorialize this at the January meeting.

Case # 1377 – Pom Sin Om, 4 Mt. Vernon Street. A question was asked of Mr. McCann about what happens to the water that is used for the carwash. The Board attorney said that in the resolution he would alert the Building Department to make sure the runoff is properly handled and that it meet all county requirements for runoffs. Mr. McCann said there is an application now pending with the county and the county is looking into that. They are going to control that. They don't know exactly yet what type of recovery system the county will require. Most carwashes require a recovery system installed in connection with the operation and it is a matter of how much the county is going to recover. It could be 70% or something less or something more. It is something the county controls. There are no problems with this application. A motion was made by Ms.

Perrotta and seconded by Mr. DellaFave approving this application. All were in favor of this motion. The Board attorney will memorialize this at the January meeting. The Board then ended the work session and went back into regular session.

Case no. 1376 – Coastal Outdoor Advertising, 40 Challenger Road, Block 40.01, Lot 1.01. This is an application for several variances to permit the erection of a billboard on property owned by Gasho Restaurant. The Board was furnished with proof of taxes paid, service and publication. The applicant was represented by Scott Lippert, Esq., a member of the law firm of Pashman, Stein. Mr. Lippert called his first witness, John Varys (475 West End Avenue, North Plainfield), Vice President of Development for Coastal Outdoor Advertising, who was sworn in. The Board entered a letter dated December 20, 2005, from the Division of Transportation as Board Exhibit 1. Mr. Lippert was shown the letter and a copy will be mailed to him after the meeting. Mr. Lippert objected to the letter as hearsay. He also said the turnpike is one of their competitors. It is a concern, which the DOT has voiced in correspondence. Mr. DeMarrias read the letter into the record. No one was present from the DOT to testify. The Board also received a letter from the Planning Board objecting to this application, as it would be incompatible with the intent and purpose of the master plan, which was marked as Board Exhibit 2.

Mr. Lippert said that there are only five voting board members present. He said there were several options in case the application could not be completed tonight. One would be to get transcripts for the missing members so they would be eligible to vote after the meeting. Another option would be to have the application at the next meeting when there are more than five members. If the application is finished tonight, the applicant could ask the Board to vote or hold off on voting but it would not be binding to the Board. The Board decided to continue with the application.

Mr. Lippert then began to question Mr. Varys. Coastal currently operates about 350 different billboard sites in New Jersey. Typically, Coastal arranges with the landowner for a long-term use agreement. The contract could stay the same or it could change every 90 days. The erection of the billboard itself is that a permit is applied for whereupon the foundation is designed and the structure is prefabricated and shipped to the site. Installation is from 4-6 days. The maintenance of the unit itself is normally one of two things – a crew of one or two men coming to change the advertising or to replace or repair light bulbs as they go out. The most frequent traffic that could be expected to be generated would be two site visits a month.

The applicant marked Exhibit A1 – 2005 certificate from the State Department of Transportation for this specific sign and site. It is an outdoor sign permit for this specific sign. The parameters that the DOT principally consider is proximity to another outdoor advertising sign which is approximately 300' from any other permitted advertising sign. If the criteria are met, a permit is issued.

Exhibit A2 was also marked – a photographic representation taken on December 12, 2005, by Mr. Varys by digital camera of what the sign would look like on the property. The photograph shows a rigid extension pole used to measure height. It would be 45' in

height from the bottom to the base of the apron. There would then be a 20' high sign making the overall height 68'.

Photograph B shows what the sign would look like from the west. This photograph was taken linearly 500' to the west of the proposed site taken from the shoulder of the eastbound traffic on Rte 46. This is an actual photograph of a billboard sign face that has been superimposed onto that height.

Photograph C was taken from approximately 1,000' and taken from the shoulder of the westbound lanes of Rte 46.

The building roofline of Gasho Restaurant is 200'. This would be the only billboard in this area and the only one west of the creek. This height does take into consideration the potential drive over. Rent would be paid to Gasho.

Mr. Lippert called his next witness, Alex Zepponi, Engineer, who was sworn in. Mr. Zepponi gave his credentials and was accepted as an expert by the Board. Mr. Zepponi was retained to prepare the plans dated August 1, 2005. The plans titled Site Plans and Details of Outdoor Advertising Sign dated August 1, 2005, were marked as Exhibit A-3. These plans related to Lot 1.02, Block 40.02, which is also called 40 Challenger Road. There are approximately 2.34 acres in an OP1 zone. There is a parking area and an existing two-story restaurant. There are also two existing signs on the property. One identifies the Gasho Property and other in somewhat less than pristine condition identifies the Overpeck Centre site. The applicant is looking to erect a center mount structure, meaning the pole comes up in the middle of the structure, a v, and the two faces are not parallel to each and the location of the sign is shown on the plan depicted on the marked up enhanced picture. There is also a catwalk for service and an access ladder, which can be locked and gated. The size of the proposed sign is two 25 x 50 linear feet signs, back to back. The height of the sign is 68 feet to the top, take the bottom of the sign and deduct 20 feet plus the skirt. The signs will be lit by five 400-watt bulbs; these are standard for the industry both in terms of wattage and number of bulbs and fixture used specifically designed for billboards. The scope of the lights stays within the billboard as they are specifically designed for billboards.

The location of the sign meets the setback and lot coverage. The height of 68 feet does exceed the height. There are two sign faces of 1,000 sq. feet each and that exceeds the ordinance. The ordinance limits the wattage and this also exceeds the ordinance. There are also two other signs on the property and this is a third sign, which would exceed the ordinance. It is his understanding that the applicant is willing to remove at least one sign. Scott Lippert withdraws that, as they don't own the property. They have no plans to remove a sign.

The DOT permit process is that they also look with an eye toward safety and that specifically would be whether or not this proposed sign would interfere with any other signs, including directional signs, exit ramps, traffic safety signs, etc., and where it occurs with regard to on and off ramps and whether it would cause any traffic interference. The

Board questioned what the DOT looks into and that the DOT does not look at it if it is a county park utilized by many people in the area. The reply was that the DOT does not look at it, only as far as safety issues and traffic. Mr. Lippert said that pristine parks are usually located in residential zones and they are not allowed to put a sign in a residential zone. The Board informed the applicant that Overpeck Park happens to be within a half mile of the proposed location of the billboard. The applicant advised that this is not a locator sign or a store sign. These signs by their nature need to be larger and higher because they are transmitting a message as opposed to just locating where a building is. They need to be larger so they can be read while someone is traveling on a highway. By the very nature of the ordinances of a town are specifically geared toward a different kind of sign, they do not address this kind of sign. The Board asked if this helped the visual appearance of the highway and this is very subjective. It is quite large and intrusive. The sign is about 40 feet from the restaurant.

Richard Lapinski, licensed professional planner, was sworn in and accepted as an expert by the Board. The proposal is to erect a two-sided billboard. There are a variety of variances required because they can be interpreted in different ways. The first clear D variance is the billboard itself. There is a specific prohibition of billboards so any billboard requires a variance. The property already has two free standing signs so this would be a third sign. The second sign already violates the requirement of only one free standing sign so the billboard would be either a C variance for the number of signs or a D variance as a third use on the property. This would have to be determined by the Board.

The zone limits the height of the sign to 25 feet; the proposed sign is 68 feet. If the sign is considered an accessory structure, then it is a C variance for the height. If the sign is considered another primary use, this would require a D variance because 68 feet violates the 25 feet by more than 10 percent. There are other bulk variances involved, the first is the request for 1,000 sq. ft. sign area when 25 ft. is permitted, each sign face would require a bulk variance. Finally, the zoning ordinance permits no more than 25 watts of incandescent power; this application proposes five 400-watt lamps requiring another bulk variance. The area is really the southern extent of the Overpeck Office Park and includes a Japanese restaurant at the northern side of 46 westbound. It really is at an exit ramp of Rte. 46. Challenger Road is really a one-way road during part of the frontage of this property so that when leaving the restaurant parking lot, you would have to turn right. The whole area is constricted by one-way ramps and limited access ramps, so very often there is no choice. The communities to the east of the property are mostly industrial developed. There is a billboard on the other side of the creek facing the eastbound traffic. There is no other billboard in the area. There are some industrial uses on the land to the south side of Rte. 46 that are undetermined. There are no structures involved. This property constitutes the southern end of Overpeck Centre, which is an office complex. There are two or three very large office buildings on Challenger Road north of this property. This sign will certainly not be visible from that park in his opinion.

With respect to the justifications for the variances, the Board knows there is positive criteria that must be met as well as negative. As far as the D variance for the billboard itself, the public benefit is served by the particular suitability of this property for this use.

That suitability derives from the isolation of this property. Clearly, billboards are inappropriate when they conflict with residential land use and that would be the case of many of the other commercial and industrial zones in Ridgefield Park. Mr. Lapinski feels that this property is so isolated from residential areas that this use would be appropriate. The highway system dominates the community in this area. Although Ridgefield Park has prohibited billboards in the Village, there are major roadway impacts in this area. Billboards are a first amendment use. This is an appropriate use as it is in an industrial area. The Board pointed out that there is quite a large residential area right over the overpass. There are houses along the side of the road. There are houses across the turnpike. The Board must think about the people in this area that will be looking at this sign. Examples of these areas are: Hille Place, Challenger Road itself, etc.

With respect to permission of variety of land uses in appropriate areas in accordance with environmental requirements, that is 40:55D2G of the statute, which he believes is advanced by this proposal. Finally, those variances which are required for sign height, sign area and illumination and even multiple numbers of signs on that property all advance that purpose which promotes the free flow of traffic, meaning simply that the billboard is placed high enough so that it can be read safely from the highway and big enough so that it can be read safely from the highway, and obviously lighted sufficiently so that it can be read safely from the highway. All of these relate to variances that are required in terms of bulk standards. All of the variances associated with the size of this sign do not relate to billboards. The purpose of the billboard is to be seen from the highway. The public benefit is derived by the appropriate use of land. This means that there are a variety of zones in town and there are a variety of land uses. This property has been licensed by the state as an appropriate location for a billboard. It is something that can be considered.

The negative criteria must be considered as well. Given the isolation of this property and distance from the residential area, Mr. Lapinski believes this is an appropriate location that will not have negative impacts. There is no substantial impairment to the master plan. He said the problem is the zoning plan does not discuss billboards. The only thing relative to this property in the master plan is that it is in the office park zone and district so the land use recommended in that area is an office or restaurant. There is no conflict with the billboard.

This property is unique by virtue of its location, isolation and number of signs that already exist. The granting of any variances in this request would not be precedent setting and the integrity of the ordinance is maintained. It is the applicant's responsibility why this application should be approved even though the governing body failed to include the use in the zone. Much of Ridgefield Park is comprised of residential neighborhoods in close proximity to the scattered commercial activity. Most of the community is solid residential. There is some considerable impact by roadway and therefore there are relatively few areas to even consider billboards. There was no need to even discuss this issue. This runs afoul of the DOT issuing of licenses, which very often conflicts with local zoning. Therefore, in a situation like that, each circumstance must be

judged on its own merit. Each case must be decided on its own merit. With this case, the statutory criteria that are required for the D variance, in his opinion, have been met.

The possible overpass was taken into consideration and the possibility that it might exist in the future.

Mr. Lippert took a moment to confer with his client. He thanked the Board for listening to the application. He feels it is a good application as this particular property is particularly well suited for the location of a billboard. There are very few sites in Ridgefield Park that would be appropriate for a billboard. When doing with a use variance, there is a higher standard that the application must advance the purposes of zoning by having the use particularly well suited to this particular property. They feel it is a particularly good location. The Board must decide if the proofs that it heard meet the statutory criteria for a variance. He feels they do. There is value in getting their message out in advertising. There is a value in allowing free commercial speech by advertising.

The case was opened to the public. No one appeared.

The Board went into work session. Mr. Cathcart instructed that no matter how members voted, he wanted a reason specified so it was on record. Ms. Perrotta questioned if the Board had to have a billboard. The ordinance says there are no billboards like this permitted, and the Board's decision was whether or not the applicant has overcome the ordinance and if they have proven that they are entitled to it. She thinks it will bother the residents in the area.

Charles McCormack said he was against it because there are residents up the road that would see it; it is 68 feet high. No one has said that they won't see it. He also says it is a busy intersection and there are enough signs to read already and people are already busy watching traffic. He doesn't think it is an appropriate place for a billboard of this size and there are already two other signs on this property. 2,000 sq. ft. of billboard is an awful big size to be sticking out.

Adam MacNeill feels the application was great in the sense that it is not within 200' of any residential neighborhood, so there was no real opposition here tonight because no one really knows it is even here tonight. If they had to have a billboard, this would probably be a wonderful place for it; however, he does not think a billboard is needed in Ridgefield Park. Every case is based on its own merits, but if a billboard is put here, then there will probably be some other really good places for a billboard in other areas as well. He feels the door doesn't need to be opened. He would say no for the application.

Nick DellaFave's concern is the overall footage is much larger than required. The illumination is much higher than is required or permitted. The overall height is kind of close to the building and he is concerned with that and again, the Board has had other companies inquire about putting other billboards up in town and he doesn't feel the Board should.

Dave Cathcart said he was going to vote no as it is not a permitted use. He thinks it is in a residential area and also within eyesight of the park.

The Board ended work session and took a vote. A motion was made by Cheryl Perrotta and seconded by Charles McCormack to deny the application. All were in favor of the motion.

The Board attorney will draw up a resolution to be read at the next meeting. Mr. Lippert took the applicant's exhibits with him and the Board's exhibits will be mailed to him.

The meeting adjourned at 10:20.

Respectfully submitted,

Barbara DeLuca
Acting Secretary

Tape #443 & 444