

**ZONING BOARD OF ADJUSTMENT
MEETING MARCH 20, 2013**

The caucus meeting began at 7:00 P.M. and the meeting began at 7:30 P.M.

Members present were:

Edwin Bergamo
Alan Angelo
Leroy Goldblatt
Jeffrey Francesoni
Robert Ortega

Members absent were: Elaine Greenberg, Edward Avena, John Cheli, George LoBiondo

Others Present were: Solicitor Frank DiDomenico, Secretary Yasmin Ricketts, Senior Planner Stephen Hawk.

The Chairman entertained a motion to approve the resolution from the February 20, 2013 meeting. Resolution 2013-8.

Roll call:

Mr. Ortega: Yes
Mr. Francesconi: Yes
Mr. Goldblatt: Yes
Mr. Angelo: Yes
Mr. Bergamo: Abstain

The Chairman entertained a motion to approve the minutes from the February 20, 2013 meeting.

Roll call:

Mr. Ortega: Yes
Mr. Francesconi: Yes
Mr. Goldblatt: Yes
Mr. Angelo: Yes
Mr. Bergamo: Yes

Mr. DiDomenico swore in Mr. Stephen Hawk, Senior Planner.

Mr. Bergamo announced that there would be one matter on the agenda for the night.

Applicant- **Vladimir & Angela Zakota**, 3011 N. Delsea Drive, Block 701, Lot 87, Zones B-3 and R-6. The applicant was represented by Michael Fralinger, Esq. The property is located on the northerly end of Delsea Drive. It is approximately 5.8 acres in size and it is split lot zoned. All the improvements are in the B-3 zone and used car sales and services are allowed in that zone. The back of the property is wooded and zoned R-6. The property is mixed use because there is a residential dwelling. In October 2011 the board approved a use variance, and they are now seeking site plan approval. The plan submitted outlines the maximum 206 cars that the board previously approved. The engineering department wanted them to keep the impervious coverage at a minimum because of the topography of the site and location near the pond. They are adding some impervious coverage on the southerly side where display area is located. The stone gravel in that area will be paved. This paved area sits 3.5' off the right of way line which is an existing condition. It was put down prior to ordinance changing. They will be taking out 6.5' buffer complying with a 10' buffer in that area. They will be also doing that along the front for symmetry. If they comply with the 10' buffer, they will lose their ability to have a display area. They are seeking a variance on the buffer area of 10' vs. 25' required.

Rami Nassar, professional Engineer, testified on behalf of the applicant. The zone line in the rear is residential. The development to the south is an existing dwelling that and there is a kennel. The house is being used as some sort of office and there is 4' between the two properties. The northerly side is also residentially zoned. There is currently no residential use, it is just a residential zone. There is a fence on the property line that encroaches onto city property. They will be moving the fence back removing the encroachment. There are six parking spaces vs. twelve spaces required for customer parking. The parking proposed is in the front of the residential dwelling. They need to increase the parking to eight spaces, so they added two spaces to the other side of the drive aisle.

Mr. DiDomenico wanted to know how many employees would be there.

Mr. Nassar stated that there would be five employees.

Mr. Hawk wanted to clarify that he did not say eight spaces were alright. The applicant provided six spaces and the ordinance requires twelve spaces. They were told to provide the amount of spaces that would work for the site and there would be a variance. Given the mix of uses, he wanted to hear testimony to why eight spaces would be enough.

Vladimir Zakota, owner, testified on his own behalf. Eight parking spaces are sufficient for the site. There are five employees and the house. Customers park near the house when they drive in. There is an average of 5-10 customers in a day. The employees usually park inside the gate in the back of the site. Eight spaces are enough, but he will increase it to ten spaces.

Mr. DiDomenico explained to Mr. Zakota that the board granted a maximum of 206 cars, so the two additional parking spaces will reduce the number of cars.

Mr. Nassar explained that a portion of the line is in the well head protection area. They have to comply with the DEP ordinance. They applied for Vehicle Recycling Stormwater Master General Permit, and they have to comply with their conditions to keep the permit active.

Mr. Fralinger explained that there is a gravel surface currently there. The rear of the site is higher than the front of the site. The water runs from the rear to the front. There are no stormwater managements issues and they are aware of the ordinance. They are next to non-residential uses and they are requesting a waiver to allow the existing surface to continue. They

are also requesting a waiver for the concrete driveway apron. There is an existing drive access and it is in good condition. They will comply with the DOT requirements for that. They need a waiver for full frontage concrete curb on Delsea Drive. They need a waiver for screening materials on the southerly property line, and lighting on the site. There are two city lights that light the areas on the property. There is a portion of the fence that is on the city's property. They will move the fence onto the property line, and place landscaping on the disturbed area. They will display septic, and dumpsters are not being proposed for the site.

Mr. Hawk wants the applicant to make a note on the plans about not having dumpsters.

Mr. Fralinger explained that there is a fence line that runs the whole block, and they would like to keep it were it is to keep it even down Delsea Drive.

Mr. Hawk asked Mr. Nassar if there will be sight restrictions, with the fence staying along the front. Mr. Nassar said no. Mr. Hawk also explained that this activity has not been this way for 40-50 years. In the 70's and Ernest Coleman went before the board for a small used car lot. In 1993, Terry Harker went before the board for a barn. In the 90's Juan Cruz went for approval for 60 vehicles subject to a site plan. Mr. Zakota purchased it from Cruz and inherited some non-conformances and illegal expansions from Mr. Cruz. Now Mr. Zakota is before the board for legitimacy. The things that he is most concerned about are the adjacency to the city property. There is no given scenario where the storage yard has to be up against the city property line. The board would be giving relief for a 0' vs. 25' buffer. They gave testimony that they went over into the city lot and that does not have to be that way. Just because it is there, does not mean it has to stay and there are any rights to it. He agrees with the statement that there will never be a house there. It is environmentally constrained but it is a city park. There could be walking trails or passive recreational facilities. It is all a matter of if you want to have more space, and not have the storage yard all the way to the property. He could bring the fence back in and create more of a buffer if it is deemed to be worthwhile. He likes that they are going to plant trees where they have the encroachment. That is going to help and add some space that they do not have right now, but that is on city property.

Mr. Fralinger stated that there is no required to move the fence back further. He does not want to do that because Mr. Zakota will lose property.

Mr. Hawk explained that if they cannot use it by the resolution of the board, and they want that 25' buffer, normally they like to see the fence up against the improved edge so that there is no abuse of that area. If it is green space, it does not matter what side of the fence it is on.

Mr. Fralinger explained that if the board wanted to move it to 25', they would use that buffer area for a drive isle.

Mr. Hawk stated that a drive isle would still violate the buffer standards. A gravel stone surface violates those standards. You cannot have any improved surfaces.

Mr. Francesoni wanted to know if it was a screening issue.

Mr. Hawk indicated that it is more of an issue of providing a proper buffer adjacent to an environmentally sensitive area with a public park. The use is not compatible to a residential zone or use. Our ordinance says that if they designed it brand new, the buffer would have to be 25' away or seek relief. They are seeking that relief and that improvement is there. It is a matter on if the board wants them to peel it back to meet the standard.

Mr. Bergamo explained that given the depth of this property and there 900' in the rear not being touched. That back fence line will never be expanded deeper into the property. He would lose about 30 parking spaces.

Mr. Hawk indicated that from the board's perspective they will be planting evergreens. The site will not be seen from the public park, it will be closer than allowed by ordinance.

Mr. Bergamo indicated that nothing is going to happen to the rear of the property. The board is not going to allow him to extend it further.

Chairman acting entertained a motion to close the public hearing.

Roll call:

Mr. Ortega: Yes

Mr. Francesconi: Yes

Mr. Goldblatt: Yes

Mr. Angelo: Yes

Mr. Bergamo: Yes

Mr. Angelo made a motion to approve the application.

Roll call:

Mr. Ortega: Yes

Mr. Francesconi: Yes

Mr. Goldblatt: Yes

Mr. Angelo: Yes

Mr. Bergamo: Yes

Application was **granted**.

Chairman made a motion to adjourn.

Roll call:

Mr. Ortega: Yes

Mr. Francesconi: Yes

Mr. Goldblatt: Yes

Mr. Angelo: Yes

Mr. Bergamo: Yes

Meeting adjourned at 8:42 PM

Yasmin Ricketts, Secretary

Zoning Board of Adjustment

