

**Township of South Hackensack
BOARD OF ADJUSTMENT
March 28, 2011
MINUTES**

At 7:40 p.m. the meeting was Called to Order. Pursuant to the Open Public Meetings Act, adequate notice of this meeting was advertised in The Record and the Herald News and by posting a copy of the meeting notice on the bulletin board in the clerk's office where notices are customarily posted.

The Chairman led the flag salute.
The Secretary called the roll.

Member Present

Lou LoPiccolo	Brian Veprek
Angelo Marrella	John Falato
Greg Padovano, Esq.	Luis Perdomo
Kevin Tihacek, Boswell Engineering	

Members Absent

James Diraimondo	Bill Regan
Victor Santos	
Jamie DiPiazza	

CORRESPONDENCE:

LoPiccolo motioned; Perdomo seconded to accept the **Correspondence** listed and place them in the appropriate files. All in favor.

OLD BUSINESS

BOA 2011-01 – Memorialize Resolution –

30 Wesley Street

Blocks: 40, 42 Lots: 1.01, 1.02, and 1

“D” Use Variance, Interpretation of Ordinance, Appeal of Action of Zoning Officer

Veprek **Motioned**; Falato **seconded** to accept the Resolution for 30 Wesley Street.

Vote: Yes: Veprek, Falato, Perdomo, Marrella

Absent: Diraimondo, Santos; DiPiazza, Regan

Not Qualified to Vote: DiPiazza, LoPiccolo

March 28, 2011

NEW BUSINESS

BOA 2011-02

Om Vagzie, LLC (Super 8 Motel)
410 Route 46 West
Block: 1.01 Lot: 2

Appeal of Action of Administrative Office/Request for Certification of Existing Non-Conforming Use.

Paul Kaufman
Attorney Representing Applicant
One Executive Drive
Fort Lee, NJ

Applying for interpretation of the South Hackensack Zoning Ordinance and a use variance to permit use of the subject property motel use. The applicant filed an appeal challenging the Zoning Officer's letter of denial for construction permits.

Nabil Mijalli, MIJA Architecture, LLC, 150 Herman Street, Hackensack testified on behalf of the applicant as an expert architect.

Tanuk Suratwala, managing member of the applicant, testified as a fact witness.

Ray DeRiso, Zoning Officer for the Township of South Hackensack, testified regarding the matter.

The property is approximately 75,468.28 sq. ft. and currently has a two story detached masonry building consisting of 58 motel rooms and a detached single story accessory office/management building with onsite parking. The property is located along Route 46 West and Phillips Avenue, and vehicular access is solely along it's frontage along Route 46 West.

The Applicant has owned the Property since approximately 1983 and has renovated the property in the past few years. The property was subject of a fire during January 2011 where the main two story building utilized as a motel was substantially damaged. A determination of whether 50% or more of the existing motel use was destroyed by the 2011 fire.

The applicant's witnesses testified that no changes or alterations to the existing structure were being proposed.

The applicant's witnesses testified that approximately 8 rooms were damaged by the fire representing a total of 17% of the Property. The applicant's architect testified that approximately 4, 0645 sq. ft of the building was damaged out of a total of 24,000 sq. ft. of the structure. There was ancillary damage associated with the fire requiring repair such as water damage etc., however it was the applicant's architects opinion that no more than 25% of the building on the property would need to be repaired.

March 28, 2011

The witness testified that it merely proposed to renovate or repair the existing building which has been damaged and that no expansion of the existing building footprint or the number of rooms available for renting was proposed.

DeRiso provided testimony indicating that in issuing the Denial Letter dated February 8, 2011 he required that the applicant seek and/or provide a detailed review of the actual amount of damage to the structure house the nonconforming motel use from the Board so that the Building Department/Zoning Department of the Township could accurately assess the applicant's ability to reconstruct and rebuild the existing nonconforming use in accordance with the requirements of the Township Zoning Ordinance.

The Board directed its engineering consultant, Boswell Engineering, the Township's Zoning Office, and The Township's Construction Official to perform an onsite inspection and prepare a report regarding the total damage due to the January 2011 fire, inclusive of all ancillary damage such as water and structural damage.

Motion to continue the matter at the next Board of Adjustment's Meeting, April 25, 2011. A signed/sealed survey of the property and the Township's engineer's letter from the inspection are required prior to meeting.

Veprek **Motioned**; Perdomo **seconded** to continue the matter until April 25, 2011 with the stipulations required stated above.

Vote: **Yes:** LoPiccolo, Perdomo, Falato, Veprek, Marrella

Absent: Diraimondo, Santos; DiPiazza, Regan

BOA 2011-03

Peter & Jean Zisa
257 Huyler Street
Block: 39 Lot: 6
"D" Use Variance

The applicant is proposing to construct a second story addition along the rear or westerly façade of the existing dwelling in alignment with the building's footprint established by the first floor.

Peter Zisa (owner) and Frank Zisa testified as a fact witness.

The property is currently utilized as a two family residential dwelling. Residential uses are not permitted in the C Industrial Zone. There is no evidence that a prior variance was granted to permit the residential use. It appears, through the testimony of the applicant and witness and the Board's knowledge of the property and area that the two family residential uses is a pre-existing non-conforming use. The proposed expansion of the dwelling by construction of the proposed addition results in an expansion of the pre-existing non-conforming use which requires use variance approval and applicant is also seeking variance approval for existing/proposed non conforming bulk stands that apply to the property under this application.

The applicant has proposed to construct a second story addition to the existing residential dwelling which is comprised of two separate dwelling units, one on the first floor and one on the second floor. The applicant is specifically proposing to remove the only existing bathroom within the second floor unit and to relocate it above the existing bathroom of the first floor by constructing the proposed addition. The addition is to be 10'9" long by 8'6" wide.

Veprek **Motioned**; LoPiccolo **seconded** to approve the addition for 257 Huyler Street.
Vote: **Yes**: LoPiccolo, Perdomo, Falato, Veprek, Marrella
Absent: Diraimondo, Santos; DiPiazza, Regan

Meeting Open to the Public

Steve Cinelli
Cinelli Iron and Metal
109 McKinley Avenue
Hackensack, NJ

Cinelli requested clarification of the Township's Zoning Officer's Letter of Denial for use of occupancy on 100 Wesley Street.

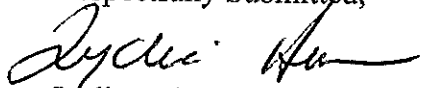
Padovano advised Cinelli that the Board does not have an application to hear. He instructed Cinelli to make a formal application so he can be heard at next month's meeting.

BOARD DISCUSSION

Padovano informed the Board that Dio Mas, d/b/a Diosa Super Club 378 Route 46 West, Block: 1.02 Lot: 1.02 has withdrawn its litigation. The applicant has agreed not to reopen because of a personal tragedy.

At 9:50 p.m. the meeting was **adjourned**. Veprek **motioned** to adjourn the meeting; **second** by Falato. **All in favor**.

Respectfully Submitted,



Lydia Heinzelman
Planning/Zoning Board Secretary

March 28, 2011

RESOLUTION

**TOWNSHIP OF SOUTH HACKENSACK
ZONING BOARD OF ADJUSTMENT**

APPLICATION OF 30 WESLEY STREET, LLC

APPLICATION NO. 2011-01

WHEREAS, 30 Wesley Street, LLC, a New Jersey limited liability company owned by Hampshire Partners Fund, VI, L.P. and Hampshire PT Member, LLC, 15 Maple Avenue, Morristown, New Jersey (hereinafter the "Applicant"), applied to the Zoning Board of Adjustment of the Township of South Hackensack (the "Board") for an interpretation of the Township Zoning Ordinance pursuant to N.J.S.A. 40:55-70(b) and, to the extent required, use variance approval pursuant to N.J.S.A. 40:55D-70(d) to permit use of a portion of an existing building for distribution of newspapers and promotional materials as further described by the Applicant; and

WHEREAS, the property subject of the application is a corner lot with frontage along both Wesley Street, Huyler Street and Schriefer Street and is designated on the Tax Map of the Township of South Hackensack as Block 40, Lots 1.01 and 1.02 and Block 42, Lot 1 and is more commonly known as 30 Wesley Street, South Hackensack, New Jersey (the "Property"); and

WHEREAS, the Property is comprised of approximately 392,464 s.f. and is improved with an existing building utilized for warehouse/industrial uses; and

WHEREAS, the Property is located within the C-Industrial Zone; and

WHEREAS, the Applicant proposes to rent a portion of the existing building on the Property to North Jersey Media for use in distributing daily copies of The Record newspapers and associated materials; and

WHEREAS, Douglas Seiferling, 1 Garret Mountain Plaza, Woodland Park, New Jersey, testified as a fact witness on behalf of North Jersey Media, the proposed tenant; and

WHEREAS, Mr. Dougherty, 15 Maple Avenue, Morristown, New Jersey, testified as a fact-witness on behalf of the Applicant, regarding the existing site conditions and proposed use; and

WHEREAS, Donna Holmqvist, PP, AICP of Burgis Associates, 25 Westwood Avenue, Westwood, New Jersey, testified as an expert planner on behalf of the Applicant; and

WHEREAS, Mr. Ray DeRiso, Zoning Officer for the Township of South Hackensack, testified regarding the matter during the public hearing;

WHEREAS, after due notice and publication, the matter was called for a public hearing on January 24, 2011 at which time the Applicant was represented by Nowell Amorso, Klein Bierman, P.A. (Anthony Pantano, Esq. appearing); and

WHEREAS, the Applicant sought an interpretation of the Township of South Hackensack Zoning Ordinance pursuant to N.J.S.A. 40:55D-70(b) regarding whether the proposed use was permitted in the C-Industrial Zone. The Applicant also sought approval of a use variance in the event the Board determined that the proposed use is not permitted in the C Zone; and

WHEREAS, the Board made a physical inspection of the Property at such times as the Board members have indicated; and

WHEREAS, the Board has carefully considered the exhibits introduced into evidence, the testimony of the witnesses and review report/letter from the Boswell McClave Engineering, the Board's professional consultant; and

WHEREAS, the South Hackensack Zoning Board of Adjustment hereby makes the following findings of fact with regard to the application.

A. 30 Wesley Street, LLC, is the owner of Property commonly known as 30 Wesley Street, South Hackensack, New Jersey, which Property, as a whole is located along Wesley Street, Huyler Street and Schriefer Street and is also identified as Block 40, Lots 1.01 and 1.02 and Block 42, Lot 1 on the Tax Map of the Township of South Hackensack. The Property is located entirely within the C-Industrial Use Zone.

B. The Property is comprised of approximately 392,464 square feet and is currently improved with on-grade parking and a multi-tenanted building which is comprised of approximately 250,000 square feet and portions of which are occupied and utilized for warehousing/industrial uses, as described by the witnesses.

C. The Property was subject of two recent approvals granted by this Board, the most recent of which was memorialized by Resolution of the Board dated January 28, 2008 and a prior Application which was memorialized by Resolution of the Board dated September 25, 2006 (collectively referred to as the "Prior Approvals"). Under the Prior Approvals, the Board granted the Property owner permission to subdivide portions of the existing building for specific individual tenants and uses.

D. The Applicant, under the current application, specifically proposed to tenant a portion of the existing building located on the Property comprised of approximately 18,000 s.f. located in the south west corner of the existing structure (which area is designated as

"Section D" and is comprised of approximately 27,000 total s.f. of space), as testified by the witnesses. The Applicant specifically proposed to tenant this portion of the building with the tenant North Jersey Media Group for its use in a limited warehousing and distribution of daily newspapers and related materials in connection with the publication of The Record, as testified by the witnesses.

E. The witnesses testified that the proposed use of the subject portion of the existing building would entail receipt of daily newspapers and associated materials by box truck delivery which materials are printed off site. The witnesses testified that the materials would be warehoused for a limited time period until said material is picked up by private couriers for distribution throughout the region. The witnesses also testified that there would be storage of materials to be distributed as part of a weekend newspaper which would be initially delivered to the site Wednesdays through Saturday and maintained on site until delivery during Saturday and Sunday. The witnesses further testified that the material would be either packaged into individual newspapers for delivery on the Property or taken off site by the couriers for later packaging.

F. The witnesses testify that couriers will pick up papers from the Property between the hours of 3:00 a.m. to 5:00 a.m. and that the couriers would be on site for limited amount of time, approximately 10 to 15 minutes per courier. The witnesses further testified that approximately 30 curriers would be accessing the site on a daily basis.

The witnesses testified that the material to be warehoused and distributed from the Property would be delivered to the Property by box truck type vehicles which will enter the site at approximately 3:00 a.m. each day with a second delivery at approximately 3:30 a.m.

The witnesses testified that printed material would be stored for a limited time period during a weekday for distribution of the daily newspaper.

G. The Applicant, as part of this application, sought waiver from any formal preliminary and final site plan in connection with the application since no exterior alterations of the existing building or property were proposed.

H. The witnesses testified that approximately 7 to 8 employees would be utilizing the tenancy on a daily basis spread out through various shifts and part time shifts, as further described during the hearing.

I. The witnesses testified that there are approximately 72 parking spaces located in the front of the existing building and 12 along Schriefer Street which will be available for use in connection with this application. The witnesses testified that the existing parking available on site would more than adequately serve the proposed tenant under this application.

J. The Applicant's expert witness testified that the existing structure on the Property does not comply with several bulk requirements including the front yard, rear yard and side yard set backs, building height, maximum coverage, minimum landscaped area and total area. However, the witness testified that given the existing conditions of the site, the proposed use would not have any detrimental impact to the surrounding area which is comprised of industrial uses since the Applicant is not proposing any exterior additions or changes to the existing building or Property.

K. The expert witness further testified that given the fact that the Property contains frontage along 3 roadways and is close to Route 80, the proposed distribution use is appropriate and surrounding roadway service is more than adequate for the anticipated traffic associated with the proposed use.

L. The witnesses testified that all vehicular access to the tenancy would be along Wesley Street.

M. Section 208-7 of the South Hackensack Zoning Ordinance provides, in pertinent part, for the permitted, conditionally permitted and prohibited uses in the C-Industrial Zone as follows:

§ 208-7. C District - Industrial Zone.

A. Permitted uses. No building or premises shall be used and no building or part of a building shall be erected, constructed or altered which shall be arranged, intended or designed to be used for any purpose other than the following uses:

- (1) Manufacturing by the assembly of component parts only.
- (2) (Reserved)
- (3) Machine shops.
- (4) Warehouses and miniwarehouses.
- (5) Private security vaults.
- (6) Wholesale or retail sales.
 - (a) Wholesale or retail sale of the following:
 - [1] Automotive tires, batteries, mufflers, upholstery, radiators and other accessories.
 - [2] Household furniture, furnishings, rugs and carpeting, fixtures and appliances.
 - [3] Computers and communication equipment and parts therefore.
 - [4] Tools and machinery.
 - [5] Art and art frames.
 - [6] Restaurant supplies and equipment.
 - [7] Parts for any of the foregoing.
 - (b) Shops for the repair of items the sale of which is permitted under Subsection A(6) hereof.
- (7) Car wash establishments.
- (8) Open storage of goods and materials normally used in connection with one of the aforesaid permitted uses as an accessory thereto but nevertheless to a height not to exceed

eight feet and effectively screened from view of streets and abutting properties by a fence, wall or hedge at least eight feet in height.

(9) Motor vehicle body repair and paint shops in full compliance with all state and municipal regulations otherwise governing the operation of the same so long as all of the work upon the vehicles being repaired and/or painted is undertaken within otherwise permitted permanent enclosed structures and, further, so long as any point of the perimeter of the subject premises is no less than 500 feet from any point in the perimeter of any premises lawfully used or zoned for residential purposes.

(10) Public utilities within public rights-of-way or within other easements granted therefore together with the necessary connections thereto, pursuant to and to the extent permitted by grants or franchises of the Township.

(11) Digital data communication radio units no larger than two cubic feet in size excluding the electric line and any attached antenna, each of which having an antenna no longer than three feet, installed upon any existing utility pole at a point thereon no closer than 20 feet to the ground and which such radio unit shall be no closer to any other radio unit in this zoning district than 1,000 feet to any other such radio unit.

(12) Life sciences industry as more particularly described and defined in this chapter, with the exception that any medical and biological research involving live viruses and animals is expressly prohibited.

(13) Professional, business and governmental offices.

(14) Banks, savings and loans, mortgage offices, brokerage house or other investment-related offices.

(15) Retail sales of goods and services, except as prohibited herein.

(16) Offices for commercial, financial or executive purposes.

(17) Baking and preparation of food not to be consumed on premises.

(18) Laboratories and related offices engaged in research or product testing.

(19) Printing and publishing.

* * *

C. Conditional uses Conditionally permitted uses shall be as follows:

(1) Office buildings, subject to the area and bulk requirements of the B District.

(2) Supermarkets, subject to the following requirements:

* * *

(3) Sexually oriented adult entertainment as the same is defined in § 208-1 of this chapter conducted as either a principal use or as an accessory to any go-go lounge, cabaret or nightclub, notwithstanding the prohibitions contained in § 208-7D(12), (13) and (14); such uses shall be conditioned upon the approval of the Planning Board after a determination that such uses comply with all the applicable less restrictive requirements of this chapter otherwise applicable to the premises and shall further comply with the following conditions:

* * *

(4) Package handling and distribution facilities, subject to the following requirements:

(a) Bulk requirements:

- [1] Minimum lot area: 10 acres.
- [2] Minimum lot width: 200 feet.
- [3] Minimum lot depth: 200 feet.
- [4] Minimum side yard: 100 feet.
- [5] Minimum front yard: 50 feet.
- [6] Minimum rear yard: 20 feet.
- [7] Maximum building coverage: 50%.
- [8] Maximum building height: one story, 25 feet.
- [9] Minimum landscaped area: 10%.
- [10] Minimum landscaped buffer to residential zone or use: 35 feet.
- [11] Maximum height of lighting fixture in parking areas or drive aisles: 20 feet.

(b) Parking requirements:

- [1] Minimum number of spaces:
 - [a] Office area: one space per 200 square feet.

[b] Package handling amid distribution area: one space per 1,000 square feet.

[2] Parking dimensions:

- (a) Automobiles: nine feet by 19 feet.
- (b) Other vehicles: as determined by the Planning Board.
- (c) Buffer:

[1] Each facility shall have a landscaped buffer to any residentially zoned properties and residential uses with a minimum dimension of 35 feet to the property line.

[2] The buffer shall include a complete visual screen not less than 10 feet in height between parking areas or access aisles and any adjacent residential use or zone. The complete visual buffer may be provided by a fence or wall which complies with the requirements of this section. Such buffer area shall be free and clear of all structures, including accessory structures.

[3] The buffer area shall include evergreen and deciduous trees and plants. The minimum number of each type of plant material shall be calculated by dividing the buffer area into planting modules 20 feet wide by 35 feet long. Each module shall contain at least three canopy trees (such as oak, maple, birch or ash), three understory or lower trees (such as dogwood, witch hazel, magnolia, cedar, hemlock, holly, pine or spruce) and 10 shrubs (such as rhododendron, barberry, nonflowering dogwood, forsythia or viburnum). Canopy trees shall be a minimum caliper at planting of two inches and understory or lower trees a minimum height of six feet in height. Trees and plants which cannot be located within a given module shall be planted in adjacent modules or elsewhere on the site.

[4] Lighting. Any exterior facility lighting shall not exceed the height of any sound walls or buffers as required herein. All lighting shall be by separate plan to be reviewed and accepted by the Township's Engineers to ensure safety and also to ensure that light does not radiate beyond the boundaries of the site.

(d) Operations:

[1] Applicant shall demonstrate its intended manner and method of compliance with the provisions of N.J.A.C. 7:29 or, as amended or substituted, the New Jersey noise codes and shall agree to continuing compliance with such

standards. All operations of any type shall be fully screened from adjacent residential use or zones with adequate noise-abatement construction to ensure compliance. If noise walls or sound barriers shall be required they shall be a minimum height of 20 feet and constructed of material which is demonstrated to be acceptable and adequate to prevent noise in excess of the standards established by N.J.A.C. 7:29 from reaching adjoining residential uses or zones. Such noise walls are to be located at least 35 feet from the property line. In the event such wall exceeds 35 feet in height, it shall be set back an additional foot for each foot of height in excess of 35 feet.

D. Prohibited uses. Any uses other than those uses permitted by Subsections A through C of this section shall be prohibited without in any way limiting the generality and prohibition of this section. Nothing contained in this article shall be construed to permit any of the following uses in a C District:

(1) Multifamily.

(2) The manufacture of or the manufacture of articles from plastics having a flammable or toxic base or the manufacture, processing, handling, use or storage of hazardous substances.

* * *

(3) Junkyards, automobile graveyards or dismantling plants or the storage of secondhand materials derived therefrom.

(4) The boiling or treatment of junk, iron, rags, bottles or scrap paper, or storage in connection therewith, stamping machinery, rendering and tanning.

(5) Entertainment or amusement establishments.

(6) Building material storage yard, including materials such as sand, plaster, brick, cement, lumber, roofing materials, boilers, tanks, radiators, pipes and fittings.

(7) Dog pounds or kennels.

(8) Outdoor theaters.

(9) Open storage of materials

- (10) Manufacture of soaps and processing or roasting of coffee.
- (11) Automotive uses, including new and used car or truck sales and driving schools.
- (12) Go-go lounge which is an establishment or premises wherein a scantily-clad person or persons are permitted to dance or otherwise move and perform in a suggestive manner.
- (13) Any "cabaret" or "nightclub" which, for the purposes hereof, is defined as a commercial establishment open to the public providing food and/or drink which also provides entertainment in the form of dancing by live performers other than the patrons thereof.
- (14) Any sexually oriented adult entertainment as the same is defined in § 208-1 of this chapter as a principal use or as an accessory to any permitted use that is open to the public.
- (15) Massage parlors.
- (16) Used or new car dealerships.
- (17) Gasoline service stations.
- (18) Poolrooms, billiard rooms or parlors.

B. Permitted accessory uses shall be as follows:

- (1) Offices as an accessory use, occupying not more than 20% of the total gross floor area of a permitted use.
- (2) Cafeteria as an accessory use to a permitted use in the Industrial District, located on the same lot as the principal use, provided that its purpose is to serve food and drink to the employees of the principal use to which it is accessory.
- (3) Garages to house delivery trucks or other commercial vehicles only when accessory to a permitted industrial use, warehousing, wholesaling or laboratory use.

* * *

N. The Applicant initially sought an interpretation from the Board pursuant to N.J.S.A. 40:55D-70(b) that if the proposed use is specifically permitted in the C Zone. The Applicant specifically relied upon the allegation that Section 208-7(C)(4) concerning "package handling and distribution facilities".

O. The term "package handling and distribution facility" is defined under Section 208-1 of the Zoning Ordinance as:

A commercial facility primarily and exclusively engaged in the receipt and redistribution of goods, products, cargo and materials by truck or trucks in original containers or packages, including overnight courier services. Overnight storage shall be only incidental and not a primary function of the commercial operation.

P. The evidence and testimony presented to the Board reveals that the application as presented, does not comply to the conditional use requirements under the Township Ordinance and does not specifically comply with the definition of the term "package handling and distribution facility". Accordingly, the Board, prior to taking action upon the Applicant's request for alternative relief pursuant to N.J.S.A. 50:55 D-70(d), deemed that the use, as proposed by the Applicant, is not specifically or conditionally permitted under the current Zoning Ordinance of the Township of South Hackensack.

The Board's interpretation of the Zoning Ordinance in accordance with N.J.S.A. 40:55 D-70(b) that the Applicant's proposed use is not specifically or conditionally permitted in the C Zone and therefore requires use variance approval pursuant to N.J.S.A. 40:55 D-70(d) was made by the following motion and vote prior to the memorialization of this Resolution:

Said motion was adopted by the following vote at the meeting prior to adoption of the memorializing Resolution:

Moved by: Brian Veprek
 Seconded by: John Falato

	<u>For</u>	<u>Against</u>	<u>Abstain</u>	<u>Absent</u>	<u>Not Qualified To Vote</u>
Brian Veprek, Chairperson	X				
Bill Regan, Vice Chairperson	X				
James Diramondo	X				
John Falato	X				
Jamie DiPiazza				X	
Lou LoPiccolo					X
Luis Perdomo	X				
Victor Santos, Alt. #1	X				
Michangelo Marrella, Alt. #2	X				

Dated: January 24, 2011

Q. Subsequent to making the its determination under the Applicant's request for an interpretation, the Board considered the Applicant's request for alternative relief pursuant to N.J.S.A. 40:55 D-70(d) to permit the use as proposed and as testified by the witnesses during the public hearing.

R. In consideration of the application pursuant to N.J.S.A. 40:55 D-70(d) , the Board incorporates all testimony, findings, exhibits, reports and other documents submitted and/or referenced in this Resolution.

S. No members of the public appeared or testified regarding this application.

T. The Applicant has satisfied the burden of proof with respect to both positive criteria and negative criteria with regard to the proposed distribution and warehouse use, as testified by the witnesses. The Applicant has shown special reasons to satisfy its burden of proof for the use variance sought and has satisfied the enhanced burden of proof necessary to grant an approval of the application as proposed.

U. The Application for all variances for existing site conditions and parking condition associated with the subject and use variance is not detrimental to the public, surrounding neighborhood, existing traffic conditions or characteristics of the surrounding area. The proposed use as approved herein, is not detrimental to the C-Zone and is substantially consistent, although not specifically permitted, with the uses enumerated under Section 208-7 of the Township Zoning Ordinance.

V. The benefits of the proposed use variance and any associated variance as may be required for existing parking and bulk conditions to permit distribution and warehousing of newspapers and associated materials, as described by the witnesses, outweigh any detrimental effect.

W. The application, as approved, is not detrimental to the public and will not have a detrimental effect on the surrounding neighborhood, existing traffic conditions or characteristics of the surrounding area which is industrial in nature. The proposed use is consistent with other uses existing on the Property and adjacent parcels.

X. The goals and recommendations of the Master Plan will be advanced by promoting the health and general welfare of the Township citizens and citizens of the surrounding area since the proposed use is substantially consistent with the permitted uses in the C-Zone. The granting of the use variance and any associated parking/bulk variances and required waiver of formal preliminary and final site plan requirement will not result in a substantial detriment to the public.

NOW THEREFORE, BE IT RESOLVED the Application of 30 Wesley Street, LLC, Use Variance Approval and waiver of formal preliminary and final site plan be and the same is hereby approved as follows:

1. **Location, Use and Type:** The Applicant shall be permitted to utilize a portion of the existing building designated by the Applicant as "Section D", which section, in its entirety, comprised of 27,000 s.f. The Applicant proposed to occupy approximately 18,000 of at this time with possible future expansion to the entire 27,000 s.f. of space. The Applicant is permitted under this application to utilize all of "Section D" of the building (approximately 27,000 s.f. of space) in connection with its distribution and limited warehouse use as proposed and as testified by the witnesses herein.

The Applicant shall limit access this portion of the building from Wesley Street for the subject use and shall utilize this section of the building in connection with the proposed hours of operation and a number of employees referenced herein, as further testified by the witnesses during the public hearing.

The Applicant is granted waiver of all site plan approval as may be required in connection with this application since no changes to the exterior of the existing building or Property is sought under this application. Accordingly, the Applicant is not permitted under this

application to expand the footprint of the existing building or parking area located on the Property otherwise expand the existing building subject of this application without further approval of this Board or a Board of similar jurisdiction.

2. **Compliance with the report of Board Engineer:** The Applicant shall comply with the testimony of review report(s) issued by Boswell McClave Engineering including, but not limited to, its review report dated January 20, 2011, to the extent not addressed or amended during the public hearing.

3. **County of Bergen / New Jersey Department of Transportation:** The approval herein is subject to and specifically conditioned upon the approval of the County of Bergen Department of Planning and Economic Development and/or the New Jersey Department of Transportation, to the extent deemed to be applicable by said agencies.

4. **Legal and Engineering Fees:** The Applicant shall be responsible for all legal and engineering fees of the Zoning Board of Adjustment associated with this application.

5. **Other Fees:** All additional fees, if any, required by the Township Ordinances shall be paid.

6. **Reliance by Board on Testimony and Application:** Approval granted herein specifically granted based upon the testimony of the Applicant, witnesses, the exhibits, the application, and any amendments to same, submitted to the Zoning Board of Adjustment, as amended, all of which have been relied upon by the Board herein.

7. **Compliance with Laws:** The Applicant shall comply with all Township Ordinances, and any and all State and Federal laws and applicable regulations.

8. **Non-Severability of Conditions:** The relief granted to the Applicant is specifically made subject to the conditions referred to herein. In the event any condition is held to be invalid, unenforceable, or unlawful, the approval granted herein shall be unenforceable. It is the intent of the Board that Use Variance approval not be approved if any condition is invalid, and that the conditions are not severable from any variance(s) or relief granted herein.

9. **Publication of Resolution:** The Applicant shall publish notice of the Board's decision in an official newspaper of the municipality or in a newspaper of general circulation in the municipality at the Applicant's own expense pursuant to *N.J.S.A. 40:55D-10(I)*.

10. **Appeal Period:** The Applicant has been advised that there is an appeal period for the relief granted herein for a period of forty-five (45) days from the date of publication of notice of the relief granted pursuant to this Resolution in a newspaper of general circulation approved by the Zoning Board of Adjustment. Accordingly, any work or construction done prior to the expiration of the appeal period is accomplished at the sole risk of the Applicant.

Said motion was adopted by the following vote at the meeting prior to adoption of the memorializing Resolution:

Moved by: Bill Regan
 Seconded by: Brian Veprek

	<u>For</u>	<u>Against</u>	<u>Abstain</u>	<u>Absent</u>	<u>Not Qualified To Vote</u>
Brian Veprek, Chairperson	X				
Bill Regan, Vice Chairperson	X				
James Diramondo	X				
John Falato	X				
Jamie DiPiazza				X	
Lou LoPiccolo					X
Luis Perdomo	X				
Victor Santos, Alt. #1	X				
Michangelo Marrella, Alt. #2	X				

Dated: January 24, 2011

Said Resolution was memorialized at the meeting after the motion was adopted (as set forth above), by the following vote:

Moved by: Veprek
 Seconded by: Falato

For Against Abstain Absent Not Qualified To Vote

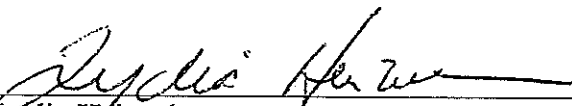
	<u>For</u>	<u>Against</u>	<u>Abstain</u>	<u>Absent</u>	<u>Not Qualified To Vote</u>
Brian Veprek, Chairperson	X				
Bill Regan, Vice Chairperson				X	
James Diramondo				X	
John Falato	X				
Jamie DiPiazza				X	X
Lou LoPiccolo					X
Luis Perdomo	X				
Victor Santos, Alt. #1				X	
Michangelo Marrella, Alt. #2	X				

Dated: March 28, 2011

SOUTH HACKENSACK ZONING BOARD

By: 
 Brian Veprek, Chairperson

CERTIFIED TO BE A TRUE COPY

By: 
 Lydia Heinzelman
 Secretary to the Zoning Board of Adjustment

0

1

2

The newspapers of **New Jersey** make public notices from their printed pages available electronically in a single database for the benefit of the public. This enhances the legislative intent of public notice - keeping a free and independent public informed about activities of their government and business activities that may affect them. Importantly, Public Notices now are in one place on the web (www.PublicNoticeAds.com), not scattered among thousands of government web pages.

County: Bergen

Printed In: The Record, Hackensack

Printed On: 2011/03/31

PLANNING BOARD

TOWNSHIP OF SOUTH HACKENSACK

PUBLIC NOTICE

NOTICE is hereby given that the Planning Board of the Township of South Hackensack, by resolution duly adopted on March 28, 2011 for the reasons set forth in its resolution of that date, conditionally granted approval to the application of 30 Wesley Street, LLC, as to premises designated as Block 42, Lot 1.02, Block 40, Lot 1.01, 1.02 and more commonly known as 30 Wesley Street for use approval to permit use of a portion of an existing building for distribution of newspapers and promotional materials. Said approval was made expressly conditioned upon the satisfaction of all of the terms and conditions contained in that resolution. A copy of that resolution is on file in the office of the Township Clerk, 227 Phillips Avenue, South Hackensack, New Jersey, and is available for inspection by members of the public during the regular business hours of that office.

Dated: March 29, 2011

Lydia Heinzelman, Secretary

South Hackensack Planning Board

March 31, 2011-Fee:\$30.24(32) 3049759

Public Notice ID: