

BOA 2011-05

Cinelli Iron & Metal Co., Inc. - Memorialize Resolution

100 Wesley Street

Blocks/Lot: 53/1.05; 54/2.02

"D" Variance; Interpretation of Ordinance; Appeal of Zoning Official's Denial of Use.

Veprek **Motioned**; Perdomo **seconded** to accept the Resolution to dismissal of application without prejudice for lack of prosecution. **Vote: Yes: Veprek; Regan; Falato; LoPiccolo; Perdomo; Santos Not Qualified to Vote: Diraimondo; DiPiazza Absent: Marrella.**

BOA 2011-04

Barricella

112 Phillips Avenue

Block: 13.03 Lot: 3.04

"C" Variance: Convert 1 family into 2 family residences.

Francesco Barricella is the owner of the property and represented himself.

Awsraf Ragagb, AIA, 39 Camden Road, Hillsborough, NJ testified as an expert in the field of architecture.

Ray Deriso , South Hackensack Zoning Officer, testified during the hearing.

The applicant proposes to utilize to construct an addition along the rear of the existing dwelling and to construct a single car garage along the northerly side of the existing dwelling resulting in a second curb cut and driveway. The addition will be utilized as a two family dwelling.

Open to the Public

Claude Buldo

110 Phillips Avenue

South Hackensack, NJ

Buldo stated that the addition would devalue the surrounding properties. He would be staring at a brick wall from his living room.

Danny Coffie

120 Phillips Avenue

South Hackensack, NJ

Coffie asked if the applicant is planning to building on the easement. He stated that the applicant's fence is three feet on his property.

May 23, 2011

Closed to the Public

The applicant did not provide sufficient testimony or evidence regarding the proposed size or building gross area of dwelling within the surrounding neighborhood and did not provide sufficient evidence regarding the proposed development's impact upon the surrounding neighborhood.

Regan **Motioned**; Veprek **seconded** to deny the application for 112 Phillips Avenue;
Vote: **Yes:** LoPiccolo; Perdomo; Falato; Regan; Veprek; Santos. **Absent:** DiPiazza;
Diraimondo; Marrella.

NEW BUSINESS

BOA 2011-06

Wingmen Motorcycle Club of Bergen County

3 Romanelli Avenue

Block: 58 Lot: 23

"D" Use Variance

Applicant was represented by Gregory Asadurian, Esq., 155 Polifly Road, Hackensack, NJ.

Allen Prinzi, 220 Knickerbock Avenue, Hillsdale, NJ, president of the Wingman Motorcycle Club of Bergen County, NJ was sworn in as a fact-witness on behalf of the applicant.

Ray Deriso, Zoning Officer for the Township of South Hackensack testified regarding the matter during the public hearing.

The applicant proposes to utilize the property approximately once per week for club meetings and to utilize the single story attached building for storage and repair of club member's motorcycles and vehicles. No commercial repairs or services to the general public are proposed. The use proposed by the applicant is not specifically permitted in the C Zone pursuant to the Township Zoning Ordinance.

DeRiso testified that to his knowledge, the applicant has not received a certificate of occupancy or any permit from the Township of South Hackensack to allow use of the subject property for the uses proposed under application.

Jeff Mason, Esq., 155 Polifly Road, Hackensack, NJ, appeared on behalf of his client, 8-10 Roma Properties, LLC, an adjacent property owner and objected to the application on behalf of his client based upon the allegation that the applicant did not satisfy the burden of proof required to grant a use variance. No other members of the public appeared or spoke regarding this application.

The Board finds that based upon testimony heard, the applicant has failed to satisfy the negative criteria as required by Sica, Supra, to support the approval of the instant application and the application cannot be granted without creating a substantial detriment to the public good where the proposed use is not permitted under the Zoning Ordinance.

The applicant has not met its burden to prove the existence of "special reasons" for the proposed use.

A motion was made to deny the application for use variance.

Veprek **Motioned**; LoPiccolo **seconded** to deny the application for 112 Phillips Avenue;
Vote: **Yes:** LoPiccolo; Perdomo; Falato; Regan; Veprek; Santos. **Absent:** DiPiazza;
Diraimondo; Marrella.

BOA 2011-07

77 Calicooneck Road, LLC

77 Calicooneck Road

Block: 7.05 Lot: 29

"C" Use Variance

Survey dated May 2, 2011; Plans revision dated 4/25/11

Applicant was represented by Matthew DeMaria, Esq., 550 Boulevard, Elmwood Park, NJ .

Donald Sweeney testified as an expert in the field of land surveying on behalf of the applicant.

Marianinfa Zito, property owner, provided testimony as a fact witness on behalf of the applicant.

Derick McGrath, P.E. testified as an expert in the field of engineering and land surveying on behalf Township of South Hackensack.

Ray DeRiso, South Hackensack Zoning Officer, testified during the public hearing.

Applicant submitted a foundation location survey plan prepared by Donald P. Sweeney and Associates, dated April 22, 2011 with last revision dated of May 13, 2011. This was marked as Exhibit A-1.

The construction of the two family dwelling recently commenced pursuant to permits issued from the Township Building Department which were issued in accordance with the plans previously approved by the Board under prior approval. The witnesses also testified that the foundation associated with the dwelling was constructed 2 feet closer to the front yard lot line of the property than noted on the plans under the prior approval. Upon inspection, the incorrect location of the foundation was noted by the Township Construction Official, Township Zoning Official and Township Engineer and a stop work order was issued.

May 23, 2011

The witness testified that the dwelling itself, exclusive of a front stoop, under the current location will be located as currently constructed, 25.2 feet from the northerly or front yard lot line, as shown on the architectural plan and foundation plan submitted to the board. The minimum front yard setback permitted in the A-Zone is 25 feet. Under the current conditions, the foundation of the dwelling, exclusive of the front stoop, complies with the minimum front yard setback requirement.

Deriso, Zoning Officer of the Township of South Hackensack, confirmed that the existing foundation, as currently constructed, at its closest point, is located 25.2 feet from the northerly or front yard lot line of the property. The proposed front stoop is to be covered with a second story roof overhang and supporting columns and is approximately 120 feet wide at its widest point. The open covered front porch will be located approximately 23.2 feet from the front yard lot line of the property where a minimum 25 feet is required. A variance is required for the front stoop location.

The applicant's witnesses testified that the proposed detached garage previously approved and identified under the prior approval is to be located in the exact location previously permitted by the Board under the prior approval.

The distance between the proposed detached garage and the proposed dwelling, as a result of the mislocated foundation, will be increased by 2 feet.

The applicant witnesses testified that with the exception of the location of the constructed foundation 2 feet closer to the northerly or front yard lot line along Calicooneck Road, no other changes were proposed or sought from the Prior Approval.

A motion to deny the subject application was made but failed to receive a second and, accordingly no vote was taken.

A motion was made to approve the subject application.

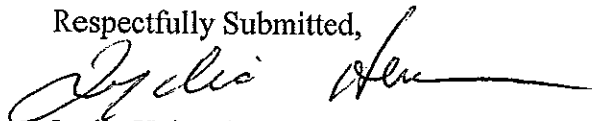
Regan Motioned; Perdomo **seconded** to accept the application for 77 Calicooneck Road;
Vote: Yes: Perdomo; Falato; Regan; Santos. **No:** LoPiccolo; Veprek.
Absent: Diraimondo, DiPiazza, Marrella.

Meeting Open to the Public

There were no public comments at this time.

At 9:07 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

May 23, 2011

Appeal of Decision of
Township Zoning Officer,
Interpretation of Township
Zoning Ordinance and Use
Variance, to the Extent
Required

RESOLUTION

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

**APPLICATION OF OM VAGZIE, LLC
(d/b/a Super 8 Motel)**

APPLICATION NO. 2011-02

WHEREAS, Om Vagzie, LLC (d/b/a Super 8 Motel) 410 Route 46 West, South Hackensack, New York (hereinafter the "Applicant"), appealed a decision of the South Hackensack Zoning Officer to the Zoning Board of Adjustment of the Township of South Hackensack (the "Board") pursuant to N.J.S.A. 40:55D-70(a) and simultaneously applied for an interpretation of the South Hackensack Zoning Ordinance pursuant to N.J.S.A. 40:55D-70(b) and a use variance pursuant to N.J.S.A. 40:55D-70(d) to permit use of the subject property motel use, as further described herein; and

WHEREAS, the property subject of the application is designated on the Tax Map of the Township of South Hackensack as Block 1.01, Lot 2 and is more commonly known as 410 Route 46 West, South Hackensack, New Jersey (the "Property"); and

WHEREAS, the Property has been owned by the Applicant for the past 28 +/- years; and

WHEREAS, the Property is comprised of approximately 75,468 +/- s.f. (1.73 acres) and is located within the M-Mixed Use Zone; and

WHEREAS, Nabil N. Mijalli, AIA, MIJA Architecture, LLC, 150 Herman Street, Hackensack, NJ 07601, testified on behalf of the Applicant as an expert architect; and

WHEREAS, Mr. Tanuk H. Suratwala, managing member of the Applicant, testified as a fact witness; and

WHEREAS, the Applicant submitted a site plan prepared by Sherif H. El-Far, PE, Allied Engineering Associates, 917 Marie Court, Franklin Lakes, NJ 07417, consisting of two pages dated January 18, 2011. The Applicant submitted a site survey prepared by Vincent Manno, PLS, PP, dated February 28, 2011. The Applicant also submitted architectural plans prepared by Mija Architectural, LLC dated March 8, 2011. All plans submitted in support of the application are hereafter referred to as "the Plans"; and

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

WHEREAS, the Property is currently improved with two detached buildings and a paved onsite parking area. The Property is rectangular in shape fronting along NJ State Highway Route 46 West and maintains frontage along Phillips Avenue, as shown on the Plans submitted to the Board; and

WHEREAS, the Property maintains vehicular access only along its southern portion abutting New Jersey State Highway Route 46, as shown on the Plans submitted to the Board and as testified by the witnesses; and

WHEREAS, the Property have been utilized as a 58 room two-story motel with accessory single story office building for over 40 years; and

WHEREAS, after due notice and publication, the matter was called for a public hearing on March 28, 2011 and April 25, 2011 at which time the Applicant was represented by Kaufman,

Bern, Deutsch & Leibman, LP (Paul C. Kaufman, Esq. appearing, Fort Lee Executive Park, One Executive Drive, Fort Lee, New Jersey; and

WHEREAS, the Applicant filed an appeal in accordance with N.J.S.A. 40:55D-70(a) challenging the Administrative Officer/Zoning Officer of the Township of South Hackensack issuance of a letter of denial for construction permits dated February 8, 2011 (the "Denial Letter"); and

WHEREAS, the Denial Letter issued states that, in pertinent part, that

the property is currently being used as a motel that use is not a permitted use according to the Township of South Hackensack Zoning Code 208-8A. This use has been there for many years and is considered to be a Nonconforming Use.

According to the Township of South Hackensack Zoning Code, 208-16, Repair of Buildings Housing Nonconforming Uses, the building an only be repaired under certain conditions; and

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

WHEREAS, Section 208-8A of the Township of South Hackensack Zoning Ordinance enumerates the permitted uses within the M Zone as follows:

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) Hotels.
- (2) Professional business and governmental offices, banks, savings and loans, mortgage offices, brokerage houses or other investment-related offices and post offices.
- (3) Eating and drinking places, including fast-food restaurants.

(4) 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.

(5) 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.

(6) Retail sale of goods and services, except as prohibited herein.

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

(8) Barber shops, beauty parlors and similar service establishments.

(9) Stores, shops, department stores and similar uses for retail merchandising.

(10) Printing and publishing.; and

WHEREAS, Section 208-16 of the Township of South Hackensack Zoning Ordinance provides for the repair of nonconforming uses structures as follows:

A Any nonconforming building may be restored or repaired in the event of partial destruction by reason of any windstorm, fire, explosion or other act of God or the public enemy. However, if any nonconforming building shall be destroyed by reason of windstorm, fire, explosion or other act of God or the public enemy to the extent that such destruction is deemed to be complete destruction, then such structure may not be rebuilt, restored or repaired, except in conformity with the regulations of this chapter. The Construction Official shall apply the laws of the State of New Jersey, including relevant case law, in determining whether such destruction is partial or complete.

B. If any nonconforming building shall be demolished, removed or altered to effectuate a proposed construction project to the extent of more than 50% of its gross building square foot floor area or more than 50% of the total building volume, then the structure may not be rebuilt, restored or altered except in conformity with the regulations of this chapter.

C. For purposes of this section, gross building square foot floor area shall include all floor areas excluding unfinished basements, crawl spaces, nonhabitable attics and detached garages. For purposes of this section, total building volume shall not include the volume of crawl spaces, nonhabitable attics and detached garages; and

WHEREAS, the Board has carefully considered the exhibits introduced into evidence, the testimony of the witnesses, the application filed and the testimony of the South Hackensack Building/Zoning Code Enforcement Officer and testimony of the Township Engineer, Elliott F. Sachs, PE, BCEE, CME, CPWM; and

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

A. Om Vagzie, LLC, d/b/a Super 8 Motel, owns Property commonly known as 410 Route 46 West, South Hackensack, New Jersey, which Property is also identified as Block 1.01, Lot 2 on the Tax Map of the Township of South Hackensack. The Property is located entirely within the M-Mixed Use Zone.

B. The Property is comprised of approximately 75,468.28 square feet (1.73 acres) and is currently improved with a two story detached masonry building comprised of 58 motel rooms and a detached single story accessory office/management building with onsite parking. Although the Property is located along Route 46 West and Philips Avenue, it maintains vehicular access solely along its frontage abutting Route 46 West, as shown on the Plans submitted to the Board and as testified by the witnesses.

C. The witnesses testified that the Applicant has owned the Property since approximately 1983 and has continually utilized it as a 58-unit motel. The witnesses further testified that the Property was renovated during the past few years and that prior to the Applicant's ownership of the Property, it is believed to have been consistently utilized as a motel since approximately 1965.

D. The Property was subject of a fire during January 2011 wherein the main two story building utilized for motel purposes, was substantially damaged, as testified by the witnesses and as shown on the exhibits submitted to the Board.

E. Section 208-1 of the Township of South Hackensack Zoning Code defines the term "motel" as: "an establishment providing transient accommodations containing six or more room with at least 25% of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building." It is undisputed that the subject Property is a "motel" in accordance with the definition provided under the Zoning Ordinance since all of the 58 rental units have direct access to the outside without a main lobby.

F. Section 208-8 of the Zoning Code enumerates all permitted uses in the M Zone. Motel use is not permitted in the M-Mixed Use Zone. Accordingly, the motel use subject of the application exist on the Property as a nonconforming use.

G. Section 208-16 of the Township of South Hackensack Zoning Ordinance governs the repair or structures utilized for nonconforming uses damaged by the fire. Specifically, Section 208-16B, of the Zoning Ordinance states, in pertinent part, that "if any nonconforming building shall be demolished, removed or altered to effectuate a proposed construction project to the extent of more than 50% of its gross building square foot floor area or more than 50% of the

total building volume, than the structure may not be rebuilt, restored or altered except in conformity with regulations of this chapter.”

Accordingly, the determination of whether 50% or more of the existing motel use was destroyed by the January 2011 fire must be determined in order to conclude whether the subject structure could be reconstructed without a variance approval.

H. The Applicant's witnesses testified that no changes or alterations to the existing structure (other than the repairs necessary as a result of the fire) were being proposed.

I. The Applicant's witnesses initially testified during the March 28, 2011 public meeting that approximately 8 rooms were damaged by the subject fire representing a total of 17% of the Property. The Applicant's architect testified that approximately 4,065 square feet of building was damaged out of a total of 24,000 square foot of the motel structure. The Applicant's witness conceded that 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.

J. At the conclusion of the March 28, 2011 public meeting, the Board directed its engineering consultant, Boswell Engineering, 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.

K. The Board's engineering consultant Boswell Engineering submitted a report dated April 18, 2011 prepared by Elliott F. Sachs, PE, BCEE, CME, CPWM (the “Boswell Report”).

L. The Applicant, prior to the April 25, 2011 meeting also submitted a report from its engineer, Allied Engineering Associates, dated April 11, 2011 (as prepared by Sherif H. El-Far, PE (the “Applicant's Engineering Report”).

M. 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.

N. Mr. 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 housing 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 or rebuilding the existing nonconforming use in accordance with the requirements of the Township Zoning Ordinance.

O. Mr. James Anzevino, 91 Phillips Avenue, appeared and commented regarding the existing nonconforming sign utilized in connection with the existing motel use. The Applicant's witnesses testified that the existing sign on the Property abutting Route 46 was not expanded by the Applicant during its ownership of the Property but was merely refaced utilizing the preexisting sign structure. No other members of the public appeared or commented regarding the application.

P. Pursuant to N.J.S.A. 40:55D-70(a) the Board has the power under the Municipal Land Use Law to "hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, decision or refusal made by an administrative officer based on or made in the enforcement of the zoning ordinance." N.J.S.A. 40:55D-70(b) of the Municipal Land Use Law also permits the Board to "hear and decide requests for an interpretation of the zoning map or ordinance for decisions upon other special questions which such board is authorized to pass by any zoning or official map ordinance, in accordance with this act."

Q. Based upon the application, exhibits submitted, the testimony of the witnesses, the Boswell Report, the Applicants' Engineering Report and argument of counsel for the Applicant, the Board has determined that less than 50% of the existing structure on the Property housing the nonconforming motel use was damaged or destroyed during the January 2011 fire. Accordingly, the building utilized for the nonconforming use may be restored and/or repaired in accordance with Section 208-16 of the Zoning Code and all other applicable Building Codes of the Township, and all other local State and Federal Regulations which may be applicable.

R. Pursuant to N.J.S.A. 40:55D-70(a) and (b), the Denial Letter issued by the Township of South Hackensack Zoning Office on February 8, 2011 should be reversed based upon new information, testimony and evidence presented to the Board which was not previously available to the Zoning Officer at the time of the Denial Letter was issued.

S. The proposed continued use of the Property as a nonconforming motel use, as testified by the witnesses and as submitted under the application, does not conform to the permitted uses in the M-Zone and continues to exist as a nonconforming use under the Zoning Ordinance and Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

T. During the April 28, 2011 public hearing, the Applicant stipulated certain site improvements associated with the reconstruction and rebuilding of the building for the nonconforming motel use. Specifically, the Applicant stipulated to install a 6 foot solid fence (tan in color) along a portion of its Property abutting Phillips Avenue. The Applicant further stipulated that it would install a conforming concrete sidewalk along its Property abutting Phillips Avenue and would install additional landscape screening along Phillips Avenue and the northerly portion of its Property.

U. The Applicant further stipulated during the April 28, 2011 public hearing that the motel room identified as "number 53" would be maintained as a maintenance/employee room with only a half bathroom and would not be utilized for rentals to the general public. Specifically, the Applicant's witnesses testified that an existing shower/bathtub would be removed from this room during the current restoration of the building so to assure that it would not be rented to the general public.

V. All of the proposed site plan improvements stipulated by the Applicant are subject to final approval by the Township Engineer, Boswell Engineering, as agreed by the Applicant during the public hearing.

W. Based upon the Board's determination that the proposed reconstruction of the damaged motel is permitted pursuant to Section 208-16 of the Township Zoning Ordinance, the Applicant has withdrawn its request for use variance pursuant to N.J.S.A. 40:55D-70(d). The Board has determined that the proposed use is a preexisting nonconforming use less than 50% of which was destroyed during the January 2011 fire, and if therefore able to be rebuilt in accordance with the Zoning Ordinance. Accordingly, there is no basis to proceed under a use variance portion of the application and that portion of the application is hereby dismissed, without prejudice.

NOW THEREFORE, BE IT RESOLVED that the application of Om Vagzie, LLC d/b/a Super 8 Motel to permit continued nonconforming use of the Property as a motel, as defined under the current Zoning Ordinance of the Township of South Hackensack, with accessory onsite parking and accessory single story motel office building, is permitted pursuant to Section 208-16 of the Township Code. The Application stipulated that it will install certain site improvements as part of the reconstruction, subject to the final approval by the Township Engineer and will

maintain single vehicular access along New Jersey State Highway Route 46, as shown on the Plans submitted to the Board and as testified by the witness, as further described herein.

In accordance with N.J.S.A. 40:55D-70(a), the Applicant's appeal of the Letter of Denial dated February 8, 2011 issued by the South Hackensack Zoning Officer is hereby reversed based upon the Board's interpretation of the current Zoning Ordinance pursuant to N.J.S.A. 40:55D-70(b) and finding that the fire which occurred on the Property during January 2011 resulted in a damage of less than 50% of the existing structure encompassing the nonconforming use therefore the Applicant is able to rebuild the structure to its prefire size and location without need for further variance approval; and

BE IT FURTHER RESOLVED that the Applicant's request for use variance approval pursuant to N.J.S.A. 40:55D-70(d) is deemed to be moot based upon the Board's interpretation and reversal of the Denial Letter dated February 8, 2011 herein and is therefore dismissed, without prejudice, subject to the following conditions:

1. **Location and Use:** The Applicant shall be permitted to reconstruct and repair the existing building located on the Property which previously housed the nonconforming motel use as a continuation of the existing nonconformity.

The Applicant shall install/construct various site improvements as stipulated during the April 25, 2011 public hearing which shall include the installation of a 6 foot solid fence (tan in color) along the portion of the Property abutting Phillips Avenue in a style and specific location to be approved by the Township Engineer, Boswell Engineering. The Applicant shall further install/construct a compliant concrete sidewalk along the portion of its Property abutting Phillips Avenue, subject to final approval by the Township Engineer, Boswell Engineering. The Applicant shall also install additional landscaping on the Property specifically located along the

portion of the Property abutting Phillips Avenue and along the northerly side of the Property, subject to final approval by the Board's Engineer, Boswell Engineering.

The Applicant shall not utilize the room which was identified as "number 53" during the April 28, 2011 public hearing for rental purposes and shall remove any existing shower and/or bathtub so that specific room is maintained only as a half bath to be utilized only by the Applicant or its employees. Under no circumstances is this room to be utilized for overnight stay or rental by any person, including employees or agents of the Property owner or Applicant.

Nothing in the approval shall be deemed to grant use variance or other variance approval regarding the use of the Property as a motel. The current motel use remains to be nonconforming under the current Zoning Ordinance.

2. **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.

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

4. **Reliance by Board on Testimony and Application:** The action taken herein is specifically based upon the testimony of the witnesses, the exhibits, the argument of counsel, the application, and any amendments to same, and as submitted to the Zoning Board of Adjustment, all of which have been relied upon by the Board herein.

5. **Compliance with Laws:** The Applicant shall comply with all Township Ordinances, and any and all State and Federal laws and applicable regulations, to the extent not addressed herein, including but not limited to, the requirement that the Applicant obtain all required permits in connection with its occupancy and renovation of the Property.

6. **County of Bergen / New Jersey Department of Transportation:** The approval approved herein are subject to the approval of the County of Bergen Planning Board and the New Jersey Department of Transportation, to the extent applicable.

7. **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 variance approval granted herein shall be unenforceable. It is the intent of the Board that the variance approval not be approved if any condition is invalid, and that the conditions are not severable from any variances or relief granted herein.

8. **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.

A motion was made by the following vote that the proposed nonconforming motel use of the Property, in accordance with the testimony of the witnesses, argument of counsel, and exhibits and application submitted to the Board, is permitted to be repaired and restored as a nonconforming use within the M-Mixed Use Zone and that the denial of the construction permits under the Denial Letter issued on February 8, 2011 is hereby reversed based upon the information provided to the Board during the public hearing and said motion also noting that the Applicant's request for use variance approval pursuant to N.J.S.A. 40:55D-70(d) is deemed moot and is dismissed, without prejudice.

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: April 25, 2011

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

Moved by: *Veprek*
 Seconded by: *LoPiccolo*

For Against Abstain Absent Not Qualified To Vote

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: May 23, 2011

SOUTH HACKENSACK ZONING BOARD

By: *Brian P. Veprek*
 Brian Veprek, Chairperson

CERTIFIED TO BE A TRUE COPY

By: *Lydia Heinzelman*
 Lydia Heinzelman
 Secretary to the Zoning Board of Adjustment

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: 2011/05/27

ZONING BOARDTOWNSHIP OF SOUTH HACKENSACK
PUBLIC NOTICE

NOTICE is hereby given that the Zoning Board of the Township of South Hackensack, by resolution duly adopted on May 23, 2011 for the reasons set forth in its resolution of that date, conditionally granted approval to the application of Om Vagzie, LLC, as to premises designated as Block 1.01, Lot: 2 and more commonly known as Super 8 Motel, 410 Route 46 West to permit continued nonconforming use of the Property as a motel. 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: May 23, 2011

Lydia Heinzelman, Secretary
South Hackensack Zoning Board
May 27, 2011-fee:\$26.46 (28) 3088357

Public Notice ID: 16566961

RESOLUTION

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

**APPLICATION OF CINELLI IRON & METAL CO., Inc.
CALENDAR NO. 2011-05**

WHEREAS, Cinelli Iron & Metal Co., Inc., 109 McKinley Avenue, Hackensack, New Jersey (hereinafter referred to as the "Applicant") appealed a decision of the South Hackensack Zoning Officer to the Zoning Board of Adjustment of the Township of South Hackensack (the "Board") pursuant to N.J.S.A. 40:55D-70(a) and simultaneously applied for an interpretation of the South Hackensack Zoning Ordinance pursuant to N.J.S.A. 40:55D-70(b) and a use variance pursuant to N.J.S.A. 40:55D-70(d) to permit use of the subject property for indoor warehousing/storage of material, products and incidental distribution of materials such as recyclable metal, as further described in the application filed with the Board; and

WHEREAS, the property subject of the application is designated on the Tax Map of the Township of South Hackensack as Block 53, Lot 1.05 and Block 54, Lot 2.02 and is more commonly known as 100 Wesley Street, South Hackensack, New Jersey (the "Property"); and

WHEREAS, the subject Property is located in the C Industrial Zone; and

WHEREAS, after due notice and publication by the Applicant, the matter was called for a public hearing on April 25, 2011; and

WHEREAS, the Applicant failed to appear during the public meeting held on April 25, 2011 and, the application having been called by the Chairman of the Board as scheduled on the agenda for the public meeting; and

WHEREAS, Mark K. Follender, Esq. of Scarinci Hollenbeck, 1100 Valley Brook Ave Lyndhurst, New Jersey appeared on behalf of interested parties who received notice of the public hearing; and

WHEREAS, the Board is required to take action on variance applications within certain time periods pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.; and

WHEREAS, the Board desires to remove this matter from its agenda and the Applicant having not appeared or otherwise contacted the Board, the Board hereby dismisses the application, without prejudice, for lack of prosecution.

NOW THEREFORE, BE IT RESOLVED that the application filed Cinelli Iron & Metal Co., Inc., 109 McKinley Avenue, Hackensack, New Jersey pursuant to N.J.S.A. 40:55D-70(a), N.J.S.A. 40:55D-70(b) and N.J.S.A. 40:55D-70(d) to permit use of the subject property for indoor warehousing/storage of material, products and incidental distribution of materials such as recyclable metal, as further described in the application filed with the Board, and the Applicant having failed to appear at the scheduled public hearing and failing to advise the Board of its intention to continue to prosecute the matter hereby dismisses the application, without prejudice, for lack of prosecution subject to the following conditions:

1. **Legal and Engineering Fees:** The Applicant shall be responsible for all legal and engineering fees of the South Hackensack Zoning Board of Adjustment in connection with this application.

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

3. **Appeal Period:** The Applicant is hereby advised that there is an appeal period for the action of the Board memorialized herein for a period of forth-five (45) days from the date of publication of notice of the Board's action pursuant to this Resolution in a newspaper of general circulation approved by the Board.

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

Moved by: Bill Regan
 Seconded by: Lou LoPiccolo

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	
Lou LoPiccolo	X				
Luis Perdomo	X				
Victor Santos, Alt. #1	X				
Michangelo Marrella, Alt. #2	X				

Dated: April 25, 2011

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

Moved by: *Vepek*
 Seconded by: *Perdomo*

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

Dated: May 23, 2011

SOUTH HACKENSACK ZONING BOARD

By: *Brian A. Vepek*
 Brian Vepek, Chairperson

CERTIFIED TO BE A TRUE COPY

By: *Lydia Heinzelman*
 Lydia Heinzelman
 Secretary to the Zoning Board of Adjustment

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: 2011/05/27

ZONING BOARDTOWNSHIP OF SOUTH HACKENSACK
PUBLIC NOTICE

NOTICE is hereby given that the Zoning Board of the Township of South Hackensack, by resolution duly adopted on May 23, 2011 for the reasons set forth in its resolution of that date, denied approval to the application of Cinelli Iron and Metal Co., as to premises designated as Block: 53, Lot: 1.05, Block: 54, Lot: 2.02 and more commonly known as 100 Wesley Street for use approval to permit use of indoor warehousing/storage of recyclable metal. 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: May 24, 2011

Lydia Heinzelman, Secretary
South Hackensack Zoning Board
May 27, 2011-fee:\$23.63 (25) 3088344

Public Notice ID: 16566977