

Borough of Clementon

Planning/Zoning Board

December 12, 2019 Meeting Minutes

The December 12, 2019 meeting of the Clementon Planning/Zoning Board was called to order by Chairman Feldman. It was announced that the meeting has been properly advertised and posted Pursuant to N.J.S.A. 10:4-6, The Open Public Meetings Act. The meeting was then opened with a salute to the flag and called to order by Chairman Feldman.

Roll Call: Chairman Feldman, Vice Chairman Kunkel, Secretary McKelvey, Member Armbruster, Member Kuns , Member Saunders, Churchill Engineer Bill Fleming, Solicitor Rhodes; Present, Member Lofland, ; Mayor Weaver, Member Naurath; Absent

We have 6 members in attendance, they are all on the planning board, there are 5 zoning keep that in mind.

Mercantile application for Hector A. Hernandez "Pasta e caffè di Marco" 1 Berlin Rd Unit 2.

Chairman Feldman: *We are concerned about the Fire Official denying his approval. Is there a specific reason for that so we can see if this application can be heard, maybe explains it?*

Hector: *The Fire Official stated the fire extinguisher is expired and needs to be replaced.*

Chairman Feldman: *Is that the only issue?*

Hector: *That is what I understand from the Landlord*

Chairman Feldman: *Is the Landlord here tonight?*

Solicitor Rhodes: *Who is the Landlord?*

Hector: *Singh Lee*

Miles Dumbleton: *Per the Fire Marshal there are some things that have to be cleared up, before it goes to council for approval of Mercantile.*

Chairman Feldman: *What are you planning to do here?*

Hector: *We are planning on opening same type of restaurant.*

Chairman Feldman: *Before we begin please tell the board where exactly in the shopping plaza this is? Be specific.*

Hector: *Dominos Pizza Metro PCS then Us, then the nail salon*

Solicitor Rhodes: *And what is your name*

My name is Hector Hernandez

Chairman Feldman: *I see on the application you plan to be open Monday thru Sunday 10 am to 10 pm is that correct? 7 days a week?*

Hector: *open 7 days a week*

Chairman Feldman: *How many employees you plan to have?*

Hector: *To start 5 that includes drivers and waits staff.*

Chairman Feldman: *What are drivers going to do?*

Hector: *Deliver food*

Chairman Feldman: *How many drivers' you plan to have?*

Hector: *Two (2)*

Chairman Feldman: *So, two (2) drivers, and two (2) waiters?*

Hector: *One (1) waiter that will work counter also and 2 employees in the back.*

Chairman Feldman: *Who will be washing dishes one of the cooks?*

Hector: *Yes, one of us will*

Chairman Feldman: *Have you made arrangements for trash pick up?*

Hector: *Yes*

Chairman Feldman: *You have? Do you have a contract trash pick up?*

Hector: *Yes, actually the company that was serving old business came and picked up dumpster, and went with South Jersey Sanitation. No contract.*

Chairman Feldman: *You did make arrangements to have your trash picked up verbally?*

Hector: *Yes*

Chairman Feldman: *How about signage? Did you provide information?*

Hector: *Will be using the existing sign that is there, but new lettering*

Chairman Feldman: *It will be the same size?*

Hector: *Yes, it will be the same size*

Chairman Feldman: *Have you had inspections yet from the Board of Health?*

Hector: *Not, yet, I filled out the applications*

Chairman Feldman: *Have you installed cooking equipment, sinks?*

Hector: *We are going to clean up and paint but most of the stuff that is there we will be using.*

Chairman Feldman: *I know there is limited parking at that center will you have 5 cars filling up those spots?*

Hector: *I will be driving with my father and another worker and the two (2) drivers' so we will be taking up 3 of the spots.*

Chairman Feldman: *Anyone else have any questions or concerns regarding this application?*

Member Armbruster: *I had a question, you have on here listed other licenses like fuel sales and cigarette sales are these for another business or will you be selling cigarettes?*

Hector: *It is for another business*

Member Armbruster: *So this is strictly take- out, and dine in restaurant and what type of food?*

Hector: *Yes and it is Italian Cuisine*

Member Armbruster: *Do you operate any other restaurants?*

Hector: *We sold the most recent one we had, in Seaside Heights*

Co Chairman Kunkel: *When do you plan on Opening?*

Hector: *January mid-January*

Miles Dumbelton: *They can open when they get Health Department ok and the Fire Marshall's Office. The previous tenant had outdoor seating, was that aloud and could Hector do that?*

Chairman Feldman: *I think that just appeared, and don't think that is allowed in the district.*

Hector: *We are not going to do that just inside only*

Co Chairman Kunkel: *What is the capacity?*

Hector: *About 25 people*

Chairman Feldman: *Will you have ample parking for that I don't think you will.*

Member Armbruster: *Well usually to a restaurant they come 4 to a car or table. There are about 25 spots there on side of building to. Most of the business' there aren't business that holds a lot of people there.*

Chairman Feldman: *Ok any other questions or concerns? Hearing none can I have a motion to approve?*

Vice Chairman Kunkel: *Motioned to approve and send onto council, Member Armbruster stated it should be contingent upon approval of Fire Marshall and Health Department, Chairman Feldman stated to add that to the application to forward to Council. Secretary McKelvey 2nd the motion and roll call was called upon. All Members Ayes; Member Naurath, Lofland, and Mayor Weaver; Absent*

Chairman Feldman: *Next on the Agenda Is Laurence Chi*

I am Jack Turner Attorney with Laurence Chi, The Owner Abdullah Uzunkaya, Variance application- 342 S. White Horse Pike Block 76 Lots 8, 8.01, 9&10, if you want to swear them in first?

Chairman Feldman: *Yes, we would like to if they are going to testify before the board.*

Solicitor Rhodes swore all in

Would you all state your name full address and relationship to the application?

Laurence Chi 1370 Chewslanding Rd Clementon, NJ lessee

Abdullah Uzunkaya 100 B Phelps Ave New Brunswick, NJ Owner

Chairman Feldman: *I believe there was some litigation involving this property if you wouldn't mind I would like to hear from Solicitor Rhodes first.*

Solicitor Rhodes: *So this property is subject to some litigation, that I am sure that you are all aware of, it's the old Henry Marter property which he lost due to tax foreclosure or some type of forced sale, in which time this fellow Abdullah purchased the property. At that time there were various automobiles there, I believe are still there, that belong to a third party and some action to compel release of those vehicles. Our attorney for the Borough doesn't have any further information; it was simply filing a complaint and very little activity since that time. I don't think, Mr. Abdullah do you have an attorney for that case?*

Abdullah: *Yes*

Good you do, that the sum, let the legal record indicate that he is the property owner, has full title rights as a property owner to do what property owners do and lease to this gentleman. That is where we stand.

Chairman Feldman: *Why don't we reiterate that there are 5 voting members here, you are going to need a sweep.*

Jack Turner: *We reached out to the courts today, to find out what the status of the litigation was, and they couldn't find it, I don't know if I gave them the wrong docket number, they looked up by plaintiffs and defendants, I don't know what's going on. I told the owner he is going to have to file a tenant landlord action to evict existing holdover tenants. And get rid of the property that has been left behind.*

Jack Turner: *Regarding applications, we know there is existing structures on the property. Can you tell us what that is?*

Laurence Chi: *It was a used car lot*

Jack Turner: *Ok what is it that you need from the township? And what it requires*

Abdullah: *Want to make the property into the same type of business that it was.*

Jack Turner: *Ok, if I am to understand as well, just to address this off the bat is there previous signage on the lot? And he is going to be using same but changing out the lettering?*

Abdullah: *Yes will be using same sign just changing lettering*

Jack Turner: *Also, just to verify you did purchase this property in a tax foreclosure? You purchased the liens?*

Abdullah: *I bought it from the company who purchased the liens.*

Jack Turner: *You had it for 9 months? So I'm aware you gave me a copy of a consent order, were you ever sent a complaint regarding this action, you gave that to the attorney you hired?*

Abdullah: *Yes, and yes*

Jack Turner: *So who is the attorney taking care of that?*

Abdullah: *Thomas Abbott, North Brunswick*

Jack Turner: *I'm going to address this to Laurence, What is your business and is it incorporated?*

Laurence Chi: *yes, it's a used car sales business*

Jack Turner: *How long have you been in the used car business?*

Laurence Chi: *Since, 1999*

Jack Turner: *This business was in Bridgeton?*

Laurence Chi: *Yes, the business was really small, wanted a larger business*

Jack Turner: *So are you asking to use the same building that is there and just change the signage, is that correct? Did anyone address the ingress or egress of the property to the White Horse Pike or anything in that nature? Did anyone have any traffic concerns?*

Laurence Chi: *yes correct, No, and No*

Jack Turner: *I also understand there is a fence with vehicles inside a truck?*

Laurence Chi: *Yes*

Jack Turner: *Ok, if you can't get this variance, for the same thing how is that going to affect you.*

Laurence Chi: *I want to open up a dealership in this community, I have worked so hard to get where I am in this Country.... (Audible)....In the country I came from I couldn't do this, so here I have the opportunity. I lived in the community on Cedar Lane and I came back home to give to the community I came from.*

Jack Turner: *If the board is asking for something say like sidewalks, you and the landlord are willing yo accommodate that?*

Laurence Chi: *yes, we will*

Jack Turner: *About the building is there any concern of water run off say from the buildings into the parking lot, any problems you are aware of? No, Ok I will be turning my clients over to the board for cross examination questions.*

Vice Chairman Kunkel: *You are going to be selling used cars, there are a lot of cars there now, is there an area where you are going to put your cars?*

Laurence Chi: *The existing cars that are locked up have a passage way, it does not interfere with our business.*

Vice Chairman Kunkel: *So how many cars can you now put onto your property?*

Laurence Chi: *Going to go with the law and put up to 70 in there*

Vice Chairman Kunkel: *You have enough room to put them there, not deal with other lot?*

Laurence Chi: *Yes sir*

Member Armbruster: *Miles, correct me if I am wrong, the property itself there was a car dealership and a tow company two separate businesses? And the vehicles that were left on the property are from the tow company business?*

Miles Dumbelton: *yes correct, what Laurence is talking about is the tow company had one side and the car dealership the other side.*

Chairman Feldman: *Does access go through lot 11?*

Abdullah: *Lot 11 is not ours*

Chairman Feldman: *You have lots 8, 9, & 10?*

Abdullah: *Yes that is correct*

Chairman Feldman: *If I put this sketch to the survey the sales building is on lot 8?*

Abdullah: *Lot 8.01*

Chairman Feldman: *Ok these lots were combined, I get you. Everybody understand the sketch related to the survey? What I haven't heard yet is justification for approval of use changes, or do you plan to do that at a later time?*

Jack Turner: *When you say use changes, he has the same type of use that was present before used car sales*

Chairman Feldman: *Subsequent to that former business, There has been a need code enacted that lets this kind of business within 1200 feet within a similar business. So with the change of that code a use change will become necessary, because there is another similar business within 1200 feet.*

Jack Turner: *Regarding that there is no other thing this business but sell used cars so you would need that change, in order to do that business.*

Abdullah: *That is why we came up with the variance, for use change*

Chairman Feldman: *There are some legal justifications that will allow us to vote yes, for a use change.*

Solicitor Rhodes: *Let's see if we can put some testimony on the record. It is my understanding, that you claim this was a used car sales before is it set up in a way that, that is the only use you can make of the property? Because of how it is designed the parking and the buildings are located?*

Abdullah: *Yes*

Solicitor Rhodes: *How close are the other buildings to the used car lot?*

Chairman Feldman: *(looking at survey) I can tell you in a minute, about 380 ft*

Member Armbruster: *The other business he does sell a few cars out of there, not too much action it is 4 businesses operating out of 1 place, and he has a lot of cars in the shopping center next door*

Chairman Feldman: *381.75 I add up. It is significantly less than 1200 ft. I was not on council when they decided to change; I am going to ask a planning member who is also on council to explain the 1200ft requirement, why it was decided to do so*

Member Armbruster: *Part of it at the time is that we had several used car dealerships along the White Horse Pike; we worked with several professionals in the field economic development looking at rehabilitating the White Horse Pike and attract business it was found that an overabundance of used car dealerships will not bring business along the White Horse Pike at the time there were several in the area and more applications were coming in for more of them. What I will say is recently we have been attracting new business that will be coming in along the White Horse Pike that this board has passed approvals for the old restaurant Trout and the White Horse Pike. The area they are talking about New Freedom Rd and East they have had very little success in attracting businesses and someone who sat on both planning board and council for 20 years I don't know that this area would attract other businesses that would be of better use for this municipality and the intension of the 1200 ft rule. It passed but*

council thought it would be better not to put specific area and that this board could determine where and when a use variance is needed.

Chairman Feldman: Thank you Councilman

Solicitor Rhodes: This parking area along Route 30, you say you have to pass 45-60 vehicles is that area paved, asphalted, or what? Chairman Feldman: says on the plans gravel

Abdullah: Half of it is asphalt and half gravel

Solicitor Rhodes: Is it striped or just gravel

Jack Turner: No yellow striping just gravel

Chairman Feldman: You can't stripe gravel so is that the area you are selling the used cars from? 30 slots outside and 4 in front

Abdullah: The front if someone shows up those spots has striping already it is asphalt

Chairman Feldman: What's going to happen in the staging area? I presume once again let me try to locate the sketch of the survey it looks like the staging area is going to be right in front of these signs

Solicitor Rhodes: (hands over sketch) So, that was submitted as part of the application package

Chairman Feldman: Did you draw that? So you are familiar with it

Abdullah: Yes

Chairman Feldman: Now on your sketch, far away from White Horse Pike staging service parking is that where the signs are going to be per survey?

Abdullah: That is the service area

Chairman Feldman: So that is where there is signs, what do those signs say now?

Abdullah: Just parking

Chairman Feldman: So you are going to change to service parking

Abdullah: Yes

Chairman Feldman: And the garage for the service area is going to be where? In relationship to those signs

Abdullah: Existing building (shows on plans) where concrete is

Chairman Feldman: So this small building here that says existing building? That is going to be service area or garage. You have provisions for oil removal? Antifreeze removal that is all provided for?

Abdullah: *Yes we have provisions for oil removal and antifreeze*

Chairman Feldman: *Is there any hydraulic lifts in this building? Are they serviceable? Do they work?*

Abdullah: *Yes, 2 lifts, and they are serviceable*

Chairman Feldman: *how many mechanics do you plan to employ?*

Laurence Chi: *2 Mechanics*

Jack Turner: *And 1 Detail person*

Solicitor Rhodes: *What type of service do you do? Just to get the cars ready to sell? Do you do repair services for the public?*

Laurence: *Just to get the cars ready for sale*

Solicitor Rhodes: *So you are not a general automotive repair service?*

Laurence: *No*

Chairman Feldman: *The detail service requires a lot of water, when you wash cars soap suds and all that, where is it going?*

Abdullah: *There is a drain there existing that it goes into next to the garage into tank*

Solicitor Rhodes: *So it's recycled water and it doesn't go into the storm drains*

Vice Chairman Kunkel: *So everything was there you are just going to move right in and start business.*

Abdullah: *Yes, everything was already there*

Vice Chairman Kunkel: *So you will be able to recycle oil and any antifreeze or waste that comes off vehicle?*

Abdullah: *Yes*

Solicitor Rhodes: *How close do you plan to park the cars to the White Horse Pike?*

Chairman Feldman: *Again according to the sketch of the survey the sign shows on the survey as a concrete bat and a sign, if you put the sketch up to survey it looks like 10ft from the curb line. It looks like from 10ft to curb line from the White Horse Pike? A Number would help because there is a sight triangle on this site if you have the cars parked right to property line.*

Abdullah: *We can't park cars in front of has to be behind, audible.....*

Chairman Feldman: *So what you're saying there won't be any parking signs in front of the sign? Closest to the White Horse Pike that seems to be an additional 5 feet*

Chairman Feldman: *This is ok you can't put any parking stripes 15 feet from the curb. Is there a sight triangle problem here? What is the speed limit 45 mph? There is a sight triangle considered here. If this is the only entrance and exit there can't be any cars parked close to the highway.*

Abdullah: *I will comply with what I have to do*

Chairman Feldman: *Do you have an engineer? On staff I liked to see that sight triangle placed on this survey. I'd like to get this resolved on how close you can park those vehicles to the White Horse Pike. If in fact the applications is approved.*

Vice Chairman Kunkel: *Are you going to have parking for people coming to look at the vehicles will that be here by the sales office?*

Abdullah: *yes, by sales office there is designated parking and marked*

Chairman Feldman: *Where is that again?*

Abdullah: *(Shows the building on drawing) building lot 8*

Vice Chairman Kunkel: *So there is an office on lot 8 and 8.01? Where is the main office going to be? That the customers coming?*

Abdullah: *(Shows on plans)*

Chairman Feldman: *You are not going to be doing any subletting are you?*

Abdullah: *No*

Chairman Feldman: *So these offices are strictly for your business and your business only? Is he aloud to sublet?*

Abdullah: *No*

Member Armbruster: *Can I ask a few questions to get on record, where do you purchase your cars to sell, auctions or other places? Laurence: Auctions and other. Member Armbruster: When you buy a car you typically change the tires, oil change, all fluids would you be doing any type of body work, painting? Laurence: No Member Armbruster: The existing property the way it is set up looks like it's for an auto dealership or possible repair of vehicles. As an owner if you weren't renting to him to sell vehicles there the only logical use may be for repairing vehicles there its set up for that. If that was the use, do you think that would generate more waste on property if you used it for auto repair and not sales?*

Abdullah: *I explained to him that everything is going to go by the law*

Member Armbruster: *Oh no, If this board denied you the use of the auto sales, is a permitted use to do auto repair but wouldn't benefit the Borough to have more contamination and waste there. So that would be a benefit for the Borough not to do that kind of work*

Abdullah: Yes

Chairman Feldman: *Mr. Kuns you have been around for a while, could you tell me how long that has been a parking lot?*

Member Kuns: *I have no idea, I do have a few questions. In your service center you won't be doing any body work at all? What about lighting?*

Vice Chairman Kunkel: *Outdoor lighting when people come in the evening hours?*

Abdullah: *They already have existing lighting there; I check all lights out, change*

Vice Chairman Kunkel: *So it light up the whole lot? Ready to go just need the approval*

Abdullah: *I don't know what they did before but everything is set up there is no damage.*

Member Armbruster: *I know a lot of these businesses are prone to thefts are you planning on having any cameras things like that or someone on sight.*

Abdullah: *There are existing security cameras*

Laurence: *Outside service area Audile....*

Member Armbruster: *Per your testimony you are only using the area that was previously an auto dealership, but the area that was used for the towing service that is not included in this? Will you be doing something different with that area?*

Abdullah: *No just the automobile dealership, waiting for clearance from litigation*

Member Armbruster: *And that is caught up in litigation, I just know that from previous history with the tow area the way it was done, 15 years ago there was a fire in there because of the way the cars were piled in there. If that is what you were going to do then there should be things put in place for the future.*

Chairman Feldman: *How long has this property been vacant?*

Abdullah: *It went on market 2016*

Chairman Feldman: *You picked up the liens when? You bought it off person who did do you know when?*

Abdullah: *2016*

Chairman Feldman: *So it's been vacant for 4 years, and you owned it for how long?*

Abdullah: *9 months*

Chairman Feldman: *Is this the only lessee you have? Did you look elsewhere?*

Abdullah: *I am buying houses this is the first commercial property*

Member Armbruster: *Is this going to be straight sales, or a financing, buy here pay here type of business?*

Abdullah: *No, strictly sales*

Chairman Feldman: *Do you want to step in Mr. Rhodes and explain to the board what is required to grant a use variance in this particular case.*

Solicitor Rhodes: *We are all familiar with use variances; they're a peculiar section of land use act requiring a higher degree of proof in order to be successful not only that unlike bulk variances that only require a majority of persons present to vote, use variance requires 5 members of this zoning board. So the burden is higher proof wise and vote wise as well. And the land use act says you are allowed to grant that if because of the peculiar and extraordinary shape or building content on a property, its highest and appropriate use conforms with the applicant desire, and permitting that use would not become a detriment to the overall intent and purpose of the land use act or borough ordinances you are entitled to approve the application. In this instance the applicant agreed if you were to vote affirmatively it would be conditioned on the following; No vehicles either customer employees or those for sale can be parked closer than 15 feet closest to curb from White Horse pike. No vehicle to be parked in sight triangle ingress or egress points to provide for safety for people entering or leaving sight. There would only be permitted one use one business operating from property so we don't have multiple businesses on property. No auto body repair or painting can be done, by the business or on the property. No financing could be done on premises. And of course you would have to comply with regular DOT, county and other governmental approvals.*

Chairman Feldman: *Anybody else has any comments, questions or concerns regarding this application*

Vice Chairman Kunkel: *I think we have covered everything*

Chairman Feldman: *Can I have a motion for approval of this application?*

Vice Chairman Kunkel *motioned to approve this variance under the for mentioned conditions. Seconded by Secretary McKelvey, and roll call was called upon: Chairman Feldman, Vice Chairman Kunkel, Secretary McKelvey, Member Kuns, Member Saunders; Ayes, Member Armbruster; Abstain*

Now moving on to the Mercantile for this Deipson Motors LLC.

Member Armbruster: *Can we use the prior testimony?*

Chairman Feldman: *I think we can use all of the prior testimony.*

Member Armbruster: *If that is the case and we can use all the prior testimony can we go into a vote of this Mercantile?*

Chairman Feldman: *Does anyone have a questions or concerns regarding the Mercantile?*

Member Armbruster: *I make a motion to approve this mercantile application, Vice Chairman Kunkel seconded, and roll call was called upon Chairman Feldman, Vice Chairman Kunkel, Secretary McKelvey, Member Kuns, Member Armbruster, Member Saunders; Ayes*

Solicitor Rhodes: *The Mercantile license will be referred from this board to the Council for Mercantile license that means you do not have it yet, this is just a recommendation to council from this board. Read to the applicant the rules of the 45 day.*

Chairman Feldman: *Just part of the record I didn't ask anyone in the audience because there was nobody there.*

Engineer Bill Fleming: *Just to start I did receive the revised plans for 168 White Horse Pike probably Thursday or Friday last week haven't had anyone start reviewing them yet probably early next week. We will probably have to go over those but let us get a chance to review what's there. Secondly storm water, there's a new set of storm water management regulations that are very difficult especially with transportation. Private developers and municipalities going to build, subject to these regulations. You have to use drainage basins no larger than 2 ½ acres. Regulations will be public February 1, 2020 to use February 1, 2021. Continued to talk about the basins that are going to be required and the new laws.*

Chairman Feldman: *Going back to the 168 White Horse Pike property I didn't see any test borings on site unless they are in the basin.*

Bill Fleming: *They have to be in the basin*

Chairman Feldman: *Check it out when you go out there please, because I didn't see any*

Bill Fleming: *It is in the best interest for the Borough to have that project move forward, there were questions there about their storm water, last but not least I have been involved 15 years, it's been the board and personnel to continue to work with you guys I am 70 and at the end of a working day I am tired. After the surgery on my neck, I need to step down. I will still be involved at company but not taking on anything else.*

Chairman Feldman: *Your presence will be sorely missed there is no question about that, and shoes are going to be difficult to fill.*

Bill Fleming: *I love the Borough it has always had a spot in my heart and a pleasure to work with all of you.*

Member Armbruster: *The property this board has been involved with on Brand Ave, apparently the Mt Carmel has sold the property to another developer the developer contacted George Botcheos their current interest now is to donate the property to the Borough. It might be a good thing the question is to George they donated for open space or Borough can use for a type of space. There was a developer looking at it to put an indoor sports complex there. Or put something at Levin property the Mayor has been meeting with developer there to move forward with phase I and then the rest. They are putting their applications in to this board. Ryan Homes will be working with them. They have met with Mayor*

along with representatives of improvement authority. Looks like they are planning on finishing. They would buy from the current owners which is the improvement authority.

Vice Chairman motioned to dismiss 2nd by Secretary McKelvey @ 8:20pm

Adrienne Guernon

