

**TOWNSHIP OF ROBBINSVILLE ZONING BOARD OF ADJUSTMENT MEETING
TOWNSHIP OF ROBBINSVILLE, MERCER COUNTY, NJ
WEDNESDAY, MARCH 5, 2008 7:30 P.M.**

MINUTES

Present: *Chair Perhacs, Mr. Gibeault, Mr. Kreig, Ms. Carbone, Mr. Bihl (arrived at 7:32 p.m.), Mr. Kirkpatrick, Mr. Griffin, Mr. Siekerka, Mr. Lynch*

Also Present: *Mr. West, Township Engineer; Mr. Herbert, Sr., Esq. (stood in for Michael Herbert, Jr., Board Attorney), John Cantwell, PP, PE, from Remington & Vernick (stood in for Ms. Kooper); Ms. Post, Board Secretary; Ms. Persicketti, Recording Secretary*

Roll call for the above Board members was called and the Flag Salute took place.

“Adequate notice of this meeting has been provided as required under Chapter 231 P.L. 1975 specifying the time and place with such notice as being sent to the *Times of Trenton* and the *Messenger Press* and posted in the Municipal Building Public notice meeting bulletin board.”

CORRESPONDENCE

Mr. West sent a letter to Mercer Mobile Homes because the attorney wanted to amend the draft resolution with some additional comments, which were not stated at the hearing for the Mercer Mobile Homes' application. Therefore, the resolution has been pulled, and will be on the agenda at the next Zoning Board meeting. Mr. West added that the flow tests have been taking place for the sewers and the manholes have been inspected. The lines will be televised.

PUBLIC COMMENT

No public came forward.

BOARD COMMENTS

Mr. Kirkpatrick stated that Ms. Post send an e-mail to the Board regarding the highway/commercial zone ordinance, which will be before Council for a public hearing on March 27, 2008.

A special meeting will be scheduled to review the last Master Plan amendment. The Township architect will also attend this meeting to answer any questions, which the Board may have. Ms. Post suggested Monday evenings as a possibility for a meeting.

Chair Perhacs stated that Michel Herbert, Esq., the Township Zoning Board Attorney can no longer attend the first Wednesday of the month meetings due to other commitments and the firm is splitting the work amongst its attorneys. Mr. Herbert, Sr., has been filling in for Mr. Herbert. The Board will consider having their meetings on Thursdays in order for Mr. Herbert (Junior) to attend the meetings again. This matter will be tabled for Board discussion.

MINUTES

January 2, 2008 - No discussion. A motion was made to approve the minutes as read by Mr. Kreig and seconded by Ms. Carbone.

ROLL CALL:

AYES: Gibeault, Kreig, Carbone, Bihl, Kirkpatrick Griffin and Chair Perhacs

NAYS: None

There being four (7) "AYE" votes, the *January 2, 2008* minutes were approved as read.

February 6, 2008 - No discussion. A motion was made to approve the minutes as read by Mr. Kirkpatrick and seconded by Siekerka. Mr. Siekerka stated that Ms. Persicketti did a good job on both of the afore-mentioned minutes and incorporated a lot of material into the minutes. The rest of the Board agreed as did Mr. Herbert, Sr.

ROLL CALL:

AYES: Gibeault, Kreig, Siekerka, Carbone, Bihl, Kirkpatrick, and Griffin

NAYS: None

There being seven (7) "AYE" votes, the *February 6, 2008* minutes were approved as read.

BUSINESS TO DISCUSS

Resolutions

ZB2007-15 – *Sharbell Building Company – Approval of Preliminary/Final Site Plan.* No Board discussion. A motion was made to adopt ZB2007-15 by Mr. Kreig and seconded by Mr. Kirkpatrick.

ROLL CALL:

AYES: Bihl, Kreig, Carbone, Lynch, Siekerka, Kirkpatrick and Gibeault

NAYS: None

There being seven (7) "AYE" votes, ZB2007-15 Sharbell Building Company was adopted.

ZB2007-18 – *Mercer Mobile Homes – Approval of Use Variance & Preliminary/Final Major Subdivision.* ZB2007-18 will be tabled to the next scheduled meeting in April of 2008.

ZB2008-02 – *James Kenna – Approval of a Height Variance.* No Board discussion. A motion was made to adopt ZB2008-02 – James Kenna by Ms. Carbone and seconded by Mr. Kreig.

ROLL CALL:

AYES: Bihl, Carbone, Kreig, Siekerka, Kirkpatrick, Griffin and Gibeault

NAYS: None

There being seven (7) "AYE" votes, ZB2008-02 – James Kenna was adopted.

Application**ZB07-09-01 – Crossroads Storage, LLC****Block 38, Lot 6.01****Circle Drive & Robbinsville-Allentown Road****Zoning: RR****Continued Public Hearing from the 02/06/08 Meeting for Use Variance & Bulk Variances**

The applicant has since bifurcated its prior application, which was originally requested for a use variance, site plan and subdivided approvals and is currently pursuing approval for a use variance, height variance and bulk variances to construct two (2) two-story self-storage buildings totaling 100,000 s.f. which includes an apartment and office space and a two-story office building totaling 12,000 s.f. including a 3,000 s.f. bank with a drive-thru.

David Roskos, Esq., appeared on behalf of the applicant. As a result of the discussion, which took place at the last meeting, the applicant withdrew its request for height relief and the issue will be deferred to site plan, if the application is approved.

Chair Perhacs stated a few Board members missed the last meeting and have listened to the CD of the public hearing for this application and are eligible to vote on this matter. Mr. Herbert stated that Chair Perhacs and Mr. Lynch were not present at the last meeting. Chair Perhacs “thanked” Mr. Gibeault for acting as chair in his absence. Chair Perhacs set the record straight by the rumors, which have been going around town, in that neither he nor any Board member has ever been approached by any township government official to try to sway a vote either way. The Board members think for themselves and are objective. The Board takes the public’s opinion into consideration when casting a vote. Every individual deserves a fair chance and the time to present their case.

Mr. Kreig requested that with respect to the public, anyone who has spoken at the prior meetings, not speak again. Ms. Donato, Esq. (objector’s attorney – Washington Storage) was not present, and Edward Liston appeared on her behalf per Mr. Roskos. The objector had two witnesses. Ms. Donato stated at the last meeting that she was going to cross examine Mr. Rica, followed by direct testimony as to the objector’s two witnesses, and then cross-examination would take place. Mr. Roskos indicated that he would not set a time limit to the objector’s presentation, but would like for the Board to vote on the application because the meeting was the third being held.

Mr. Roskos gave a brief summary of the application to be as follows: use variance approval to construct two (2) story self-storage buildings totaling 100,000 s.f. with an apartment and office space located in the building closest to Circle Drive, and a two-story office building totaling 12,000 s.f. including a 3,000 s.f. bank with a drive-thru component located in the RR zone. The use variance was sought to permit more than one principle use on a lot. Variance relief was sought because the ordinance requires a minimum distance of five (5) miles between mini warehouse and storage facilities. Variance relief was also being sought for maximum building coverage for 10.5 % and variance relief from the maximum permitted impervious surface coverage ratio (.30%).

The application was bifurcated by the applicant. The applicant requested that two uses be permitted on one lot which constitutes a “D” variance. The applicant also sought a proximity variance in which they needed relief. Mr. Kreig said that once the property is subdivided there would be one use on each of the two (2) lots (due to the bifurcation). Mr. Herbert said that it was appropriate to consider the two

uses on one lot. Mr. Herbert said that the Board could consider the primary use variance allowing a variance to permit more than one principle use on a lot and the distance variance. The rest of the relief sought can be addressed in the site plan application to the Planning Board, should the Board grant the variances. The design should also be addressed at site plan. Mr. Roskos withdrew his coverage variances (no. 4, 5 and 6 from the memorandum), which will be addressed at site plan.

Mr. Roskos indicated that Mr. West asked the applicant to produce the document which tied back into the proximity ordinance. (Princeton Junction Engineering submitted a plan showing the limits of the five (5) mile radius.)

Mr. Herbert swore all the witnesses who testified. Chair Perhacs said that the meeting was left open to the public to finish that session with the intent that the individuals who had not testified did so first. Thereafter, the objector cross-examined Mr. Rica and then the objector's witnesses testified and were cross-examined by Mr. Roskos.

At this time, the public came forward as follows:

Betsy Poinsett, 41 S. Main Street, Allentown, stated that the Crosswicks Doctor's Creek Greenway Group was founded in 2001 with the approval of the governing bodies of Allentown, Hamilton, Millstone, Plumstead and Upper Freehold. A grant was obtained in the amount of \$15,000 and each community paid \$2,500 for a total of \$30,000 to work on a greenway plan. There were three (3) objectives: to protect surface water quality, to protect historic and scenic vistas, provide for future recreation and public access to trails. Ms. Poinsett addressed the historic and scenic vistas. Robbinsville has a number of historic sites and there is development along Route 130. There are a number of historic sites in Allentown. She would like for the Board to reconsider the application and take the historic sites into consideration when taking a vote.

Micah Rasmussen, 74 North Main Street, Allentown, said that he brought a number of documents to demonstrate that the applicant failed to meet the burden because of destroying the zoning in the front yard and feels that the applicant has proved that the rezoning can not be granted without hurting the public in five significant ways. Mr. Rasmussen feels that the public will be hurt in by threatening safety in a remote area which is not well patrolled. He quoted the "industry" (Mr. Greenberger was quoted in the "industry" report). Local roads, trucks and school system were addressed by Mr. Rasmussen. Also, he stated that the property was overlooked in the Master Plan twice. The township Master Plan's message about the gateway was "to preserve the rural feel and open vista of the Wittenborn gateway" (gateway remain intact), and he feels that the public will be hurt by the magnitude of the buildings, which would result in dominating the landscape of the gateway entrance into the community. The public invested millions of dollars in preserving the rhododendron farm, per Mr. Rasmussen. The Colt (phonetic – Somerset Golf property) property will be preserved. He urges the Board to reject the application. (He distributed copies of the documents to the Board. The documents consisted of publications about the industry entitled, "Inside Self Storage Publication and an article from the Star Ledger, which were labeled as **Exhibit P-3 – Documents Submitted by Mr. Rasmussen in His Portfolio.**

Jean Hunter, 12 Waker Ave., Allentown, stated that a self storage unit located in North Jersey stored all the chemicals for the first attack on the Twin Towers. She is also objecting to the amount of land being paved over.

Wayne Smith, 65 Lakeview Drive, Allentown, said that the ruling of the application will become a basis for property-zoned rural/residential throughout Robbinsville to be rezoned to commercial. The site was zoned rural/residential and not rezoned. Given the situation that the State of New Jersey is in, Mr. Smith wanted to know if the money has been allocated to provide for the road improvements. He feels that the applicant's hardship is "self imposed".

Eli Krajacic, 825 Robbinsville-Allentown Road, Robbinsville, said that he opposed the application.

Ken McCaffrey, 2 Johnson Drive, Allentown, commented that he opposed the application for all the reasons previously stated. He questioned the tax ratables and the traffic conditions. Mr. West commented that all the build-out is taken into consideration with respect to traffic. Mr. McCaffrey feels that the trucks will be going down West Manor Way, and that was not taken into consideration. He would like for the application to be rejected.

Dave Mansue, 501 Circle Drive, Upper Freehold, stated that twenty-five percent of the truck traffic from the site will end up in Allentown. Trucks on West Manor Way turn around on Circle Drive. He had a truck turn around in his driveway and caused damage to his property. He wants the application denied due to the amount of variances requested.

Doris Rutherford, 18 Saxony Way, Robbinsville, said that she feels the use is good for the site.

Mark Renzulli, 71 Potts Road, upper Freehold, spoke previously and would like to speak again. The Board stated that no one was denied the right to speak. Mr. Ranzulli said that preservation is going on in the area of the site in question and would like for the application to be denied.

Edward Liston, Esq., appeared on behalf of Ms. Donato (the objector – Washington Storage). Mr. Liston apologized for his lateness.

A motion was made by Mr. Kirkpatrick to close the public session and seconded by Ms. Carbone.

Mr. Liston stated that either way there will be an appeal on the application whether it be granted or denied. Ms. Donato wrote a letter on March 3, 2008 to Sterns & Weinroth, Mr. Roskos's firm in which she advised them she became aware of the fact that Washington Storage had been represented by Sterns & Weinroth in Washington Township approximately 10 years ago. She cited in her March 3rd letter sections of the ethics rules, which apply to lawyers. Ms. Donato's letter was provided to Mr. Roskos. Mr. Herbert replied that he also received a copy of the letter, which deals with an allegation made by an alleged former client (the applicant's attorney) that they were once represented by their firm. This matter is not within the jurisdiction of the Board. It deals with allegations, and if Mr. Liston or Ms. Donato wants to present them, it should be presented to the local Ethics Committee or to the courts. It is not fair for the Board to consider an allegation made by one former client concerning an applicant. Mr. Herbert read the documents, which relate to the rules of professional conduct, which are not cognizable before the Board. Mr. Liston presented the letters as excluded evidence for purposes of the record only. Mr. Liston wanted the letter of March 3, 2008 to be marked for identification so that it can be used in the event of an appeal. Mr. Herbert replied by stating that Mr. Roskos's firm has responded to the letter, and he would like this letter to be made part of the excluded evidence for purposes of the record. Mr. Liston replied that both letters should be marked. His only concern is that if there is an appeal, the conflict may take the entire proceeding. Mr. Herbert said that

the March 3rd letter is being presented on the third hearing, which could have been presented earlier. The letters were marked as follows: **P-4 – Liston/Donato Letter** dated March 3, 2008 and **P-5 – Roskos Letter** dated March 4, 2008.

Chair Perhacs stated that Ms. Donato cross-examined the applicant's witnesses. Mr. Liston was given an ample time to present his case within reason. Chair Perhacs suggested that each witness being presented by Mr. Liston had 15 minutes because Ms. Donato already had an hour and a half at the last meeting. Mr. Liston was in disagreement because he felt that the 15 minute time limit was a violation of his due process rights. Mr. Liston presented three witnesses, who were sworn in by Mr. Herbert.

James Ketterer, (author of a demographic study and Regional Manager of Washington Storage) -- at this time, Mr. Herbert intervened and said that he felt that it was not appropriate for a witness to show up with voluminous studies, which have not been presented to the Board or the applicant beforehand. This was not a regular procedure. Mr. Herbert indicated that common courtesy and due process would mandate this as a basic element. The hearing was scheduled for one month in advance and Ms. Donato knew about the hearing and she did not specify who was going to testify at the last hearing per Mr. Herbert. Mr. Roskos wanted to know if the witness was going to testify as to what was in the report and he received an affirmative answer from the objector. Mr. Roskos said that the report should be admitted and testimony given. He would have the right to cross-examine based on the contents.

Mr. Roskos asked who the witness was employed by: Mr. Liston answered "Washington Storage". Therefore, Mr. Ketterer is an employee of the objector. He was introduced as a fact witness and not as an expert witness. Mr. Herbert examined the report and it was dated three weeks ago and should have been presented earlier. Mr. Kreig felt that Mr. Liston was engaged in "trial by ambush" and he does not appreciate this technique. Mr. Liston replied that he was not trying to ambush anyone, and if Mr. Kreig did not want to read the report, he did not have to read it.

Mr. Ketterer gave his credentials to the Board. Mr. Ketterer concluded by his studies for a 10 mile radius that there is existing saturation on the market. **P-6 – Feasibility Study of Proposed Self-Storage Facility (10 miles)** dated February 13, 2008 – **Census Report** and **P-7 – Feasibility (5 mile radius) dated March 4, 2008** was marked into evidence. The five mile radius found that with the addition of the new facility, there will be over saturation. As it stands currently, there is a little saturation. (4½ feet is used to service each person including children). The ten mile radius needs to be 105 s.f. The applicant is over what is needed based upon the industry standard.

Mr. Roskos cross-examined Mr. Ketterer. Mr. Roskos wanted clarification on the comment made by Mr. Ketterer who said that there is an industry standard for saturation. Mr. Ketterer responded and stated that there is an industry standard for square footage required per person in a demographic (4½ feet per person). Mr. Ketterer said that the above information was obtained from the Self Storage Association Standard. Mr. Ketterer failed to bring the standard, per Mr. Roskos. Some of the information obtained was from the Census Report located in the web site. Mr. Ketterer cannot explain the variance difference. (Mr. Rica and Mr. Ketterer have a population difference.) Mr. Ketterer did not reference the 2008 Self Storage Almanac. Mr. Roskos had before him the 2008 Self Storage Almanac.

Mr. Smith, owner of Washington Storage, said that he feels that there is no other self storage needed in the given area of Robbinsville. Mr. Smith was cross-examined by Mr. Roskos and described the

storage facility to be a first class storage facility with substantial amount of climate control (24% heating, air-conditioning, insulated). The individual units are alarmed, but have no security cameras on site. There was no crime at any of the five facilities, which Mr. Smith is involved with; however, there was an incident of methamphetamine labs within the storage facility. Homeless people have moved into all the facilities.

Andrew Janiw, Professional Planner, said that the two uses on site require a “D” variance. There is no hardship on site and the site is not beneficial for the community. He feels that the variances being sought are contrary to the Master Plan and the ordinance, which does not permit any of the proposed uses on site because the mini-storage is within 5,000 s.f. of another facility and does not meet the negative or positive criteria.

At this time, the objector concluded the testimony.

Mr. Rica (Principal and the applicant) was cross-examined by Mr. Roskos. Testimony was given regarding saturation in the market place. Mr. Roskos had Mr. Rica provide to the Board an explanation as to the population figure and the saturation or the need for the use. Reference was also made to the 2008 Almanac by the objector. Mr. Rica was re-sworn by Mr. Herbert. Mr. Rica testified on the five (5) mile radius and 95% of the business is within the five-mile radius. **P-7 – Five (5) Mile Radius Report** was marked into evidence. The 2008 Self-Storage Almanac states that it was increased to 6.87 s.f. per person. **Exhibit A-21 – 2008 Self Storage Almanac – Market Conditions** was marked into evidence. For the population number, Mr. Rica used Claritas Inc. Report, which states the 50,701 s.f. (for the five mile radius), dated September 14, 2006, and the objector had 42,000 s.f. for population. Both the applicant and objector disagree on most items, but are in agreement to the four (4) competitors. He feels that there is market for them in the township. The applicant owns one other storage facility and has taken four other storage facilities through approvals. They have used the same reports submitted to the township and their reports have proven to be accurate. The plans were offered to the police department and no mention was made of homeless individuals or crime, or methamphetamines.

Mr. Liston cross-examined Mr. Rica and asked if he owns or operates any current storage facilities and Mr. Rica replied in the negative. However, Mr. Rica stated that they owned a successful storage business for approximately three years and then sold it. He owned and sold four others. Regarding the application before the Board, the applicant will either seek a partner or “flip” the facility.

Mr. West said that the site plan, which generated most of his comments, has been taken off the table. The question addressed at the last meeting was if there was any property in Robbinsville within five miles of Washington Storage. Mr. West stated that there is not. Approximately 4.3 miles up Route 130 to the Windsor border and the furthest point to the northeast is about five miles, but there is no property within five miles. Mr. Kreig asked if there was a map or drawing to present such, and have it introduced. **Exhibit A-23 – Five Mile Radius from Washington Self Storage for Crossroads Storage, LLC** dated February 14, 2008 was marked into evidence. Crossroads Storage is approximately 2½ miles away. Mr. West had nothing further to add regarding the use variance. Mr. Cantwell (Remington & Vernick) outlined the positive and negative criteria to the Board.

The Board took a brief recess from 9:40 p.m. until 9:50 p.m.

The Board discussed the application amongst themselves. Chair Perhacs “thanked” everyone for coming out with respect to the application and their cooperation over the past few months. The testimony was well presented on both sides. The public’s voice was heard. The Board takes their job seriously and will look at the evidence and make a decision on an individual basis.

Mr. Herbert went over the positive and negative criteria to grant a use variance per Mr. Kirkpatrick’s request. Positive Criteria: special reasons to carry out the purpose of the Municipal Land Use Law; no pleading of hardship. Negative Criteria: no substantial detriment to the zone plan in the municipality; there will be no impairment of the zone plan. Mr. McDonough previously testified and gave the positive and negative criteria, which Mr. Herbert outlined again to be as follows: the Medici case. At this time, Mr. Liston objected to Mr. Roskos handing a report to Mr. Herbert to read. Mr. Herbert handed the report back. The report was not marked into evidence; therefore, Mr. Liston objected. Chair Perhacs agreed. Mr. Herbert cited from a document prepared by his firm entitled “Fundamentals of Zoning” regarding positive and negative criteria and cited N.J.S.A. statute.

The Supreme Court decision in Medici elaborated on the use for which the variance is sought is not one that is inherently serving the public good. The applicant must prove and the Board must specifically find that the use promotes the general welfare because the proposed site is particularly suited for the proposed use. Also, the use variance requirement is that variance will not substantially impair the intent and purpose of the zone plan. Then the zoning ordinance must be proven with an enhanced quality of proof and the Board must make specific findings that the relief sought is not inconsistent with the intent and purpose of the Master Plan and the Zoning Ordinance per Mr. Herbert.

Mr. Kreig believed that the applicant has met the burden of proof to obtain the relief sought for the “D” variance to approve two (2) self-storage facilities and the two (2) story office building. Mr. Kreig feels that the applicant also has met the burden of proof to put more than one principle use on the lot and a variance relief from the ordinance relief that requires a minimum distance of five miles between mini-warehouse facilities. The analysis was by looking at the property and its location. Traffic will continue to increase and surrounding areas increase. The area will continue to evolve and is in transition. Mr. Kreig also feels that the applicant submitted evidence that there are special reasons for the variance requested. Robbinsville and the areas around Robbinsville would be enhanced to have a storage facility with a bank and commercial office space at that location. The location will be at a bend on Robbinsville-Allentown Road and is very visible. Also, the negative criteria has been met because there is no substantial detriment to the public good that would occur by virtue of commercial development on that site. The zoning would not be impaired by virtue of a variance at that given location, which is currently zoned rural/residential. The public testimony falls into three categories: (a) several residents of Robbinsville testified on behalf of the application; (b) several residents of Upper Freehold Township or Allentown have testified against the application indicating issues with the traffic on Circle Drive and possible light pollution on site (which should be addressed at site plan) (c) several residents of Allentown and Upper Freehold Township have testified against the property and to leave the property in its existing state (vacant land), which serves as a detriment to the residents of Robbinsville because they lose a commercial ratable – a source of funds to address the current tax situation in Robbinsville. The third variance should be relief from the minimum distance of (5) five miles and relief from the distance of five miles from the existing Washington Storage facility located on Route 130. Based upon the map introduced into evidence, there was no other place within five miles of Washington Storage that would permit another self-storage use. The applicant would come back to the Board with a subdivision plan to subdivide the property to get down to the one principle

use on each of the two lots as initially presented to the Board. Chair Perhacs commented that the application would be conditioned upon the subdivision approval request from the applicant in part two of the application. Mr. Roskos replied that the applicant shall appear again before the Board for subdivision and site plan approval should the Board act favorably on the above application.

Ms. Carbone said that this property was not addressed in the Master Plan. Ms. Carbone agrees that the area is in transition and in the future there may be significant development across the street. The land to the south of the lot is being purchased for open space.

Mr. Kirkpatrick feels that splitting the lot for two different uses is okay. He was convinced by the applicant on the five-mile deviation with regard to the demographic and the need to satisfy the condition and does not have negative criteria. He is comfortable with the negative criteria by the testimony given. It is not a substantial detriment. The residents on Circle Drive will be impacted. Mr. Kirkpatrick served on the Robbinsville Township's Planning Board and was also a part of the Reexamination of the Master Plan and said that the Wittenborn gateway (residential in transition) was discussed at great length. He agrees with the comments made by Mr. Kreig and Ms. Carbone.

Mr. Kreig feels that the property is suited. The Township Architect needs to be brought in regarding the design prior to final approval per Ms. Carbone because the Township Architect's vision is different from that of the Board. Mr. Kreig feels that the applicant's facility, if approved, needs to be "stepped down" in terms of scale and size to better fit the transition between the large corporate and the residential. The site plan as currently drafted, has a substantial amount of berm to shield people on Circle Drive from the facility leads to its own problems (ex. crime – police cannot see the facility when they drive by). Therefore, further discussion needs to take place to accommodate the concerns of the residents and at the same time the needs of a self-storage facility.

Mr. Bihl feels that the population will increase and there will be need for more storage. The five mile rule will not stand up in court and he does not believe the argument presented by the public that ratables are more expensive than leaving the property empty, but feels that this is not the property for the storage because there is other property in town which would be better suited. Mr. Bihl felt that there was a need for the storage service, but not the given property in question.

Chair Perhacs said that the positive and negatives could go either way. Great testimony and discussion. It will be a difficult vote for the Board. He is having trouble with more than one principle use (number two). Traffic will impact the corners. The self-storage had testimony; the bank need could be questionable. The Master Plan was done and the applicant's property was not changed from the RR Zone, which says something. A 12 acre property will not change taxes. He is for the five (5) mile distance between competition. Chair Perhacs agrees with Mr. Bihl.

Mr. Kirkpatrick agreed to consider Mr. Kreig's comment regarding traffic generation. Traffic generation is a valid concern.

Ms. Carbone agreed with the above statements in that the Master Plan was reevaluated and the Reexamination did not change.

Mr. West said the property in question was discussed and the driving force that it was not rezoned was due to the sewer area and the property is not in the sewer service area (Wittenborn and Mercer Corporate Park are within the sewer area).

Mr. Gibeault agrees with Chair Perhacs comments. It will be a difficult decision to make because both sides made valid points.

Mr. Kreig feels that the bank with the office space above is giving some of the Board members difficulty. Variance relief is being requested for the two uses on one site. The subdivision request to divide the property, and possibly focus on the self storage building without the bank at this point in time. The applicant can come back at a later time and address the office building separately.

Chair Perhacs replied that he asked the applicant back in January of 2008 whether they would be interested in only doing the self-storage unit and the applicant responded that it would not pay to just have the self-storage facility.

A motion was made by Mr. Kreig to approve the use variance or the "D" variance to permit the applicant to construct two (2) two story self storage facilities totaling 100,000 s.f. with an apartment and office building space located in the building closet to Circle Drive and also approve the use variance granting the applicant relief from the Ordinance 142-59 requiring a minimum distance of five (5) miles between the mini-warehouse and another self storage facility, specifically, the motion to just approve the self storage facility and not approve the request for number two – the variance relief from more than one principle use on the property or not approve the office building with the bank, strictly approve the self storage facility on that site and the variance from the five (5) mile for the reasons stated earlier. (Part of number 1 for the two self-storage facilities only and number 3 for the variance relief of the five (5) mile. Mr. Kirkpatrick seconded the motion.

ROLL CALL:

AYES: Siekerka, Kreig, Kirkpatrick,

NAYS: Bihl, Gibeault, Carbone, Perhacs

There being four (4) "NAYS", ZB07-09-01 – Crossroads Storage, LLC, was denied.

There being no other business coming before the Board, a motion was made to adjourn the meeting by Mr. Bihl and seconded by Mr. Kreig. All in favor. Meeting adjourned at 11:00 p.m.

Respectfully submitted,

Phyllis Persicketti
Recording Secretary

ADOPTED: MAY 7, 2008