



**LEBANON BOROUGH
LAND USE BOARD
REORGANIZATION MINUTES
Tuesday, March 12, 2024**

The Reorganization and Regular meeting of the Lebanon Borough Land Use Board was called to order by Jon Drill Esq. at 7:00 P.M.

The meeting was convened in compliance with the Open Public Meetings Act of 1975. Three local newspapers were notified, and a notice is posted at Borough Hall.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited by all.

OATH OF OFFICE

The Oath of Office was administered by Jonathan Drill Esq.

James Pittinger	CLASS I	12/31/2024
Joseph Hauck	CLASS II	12/31/2024
Sam Berger	CLASS III	12/31/2024
Dr. Uchrin	CLASS IV	12/31/2027
Robert Weingart	CLASS IV	12/31/2027
Marianne Mathewson	ALTERNATE #1	12/31/2024
Brad Wetzel	ALTERNATE #2	12/31/2024
Karen Romano	Secretary	12/31/2024

ROLL CALL:

Members Present: Alexander Saharic, Dr. Chris Uchir, Joseph Hauck, David Abeles, Ron Lapacyski, Jim Newman, Rob Weingart, Marianne Mathewson and Councilman Sam Berger

Absent: Mayor James J. Pittinger, Brad Wetzel

Also present: Karen M Romano, Secretary, Jonathan Drill Esq., Brett Harris PA
and Bob Brightly PE

NOMINATION OF CHAIRMAN:

Jon Drill Esq. requested a nomination for Chairman.

Mr. Abeles nominated Lex Saharic. Dr. Uchrin seconded the nomination motion. Mr. Hauck moved those nominations be closed.

Mr. Hauck moved, and Mr. Abeles seconded a motion nominating Alexander Saharic as Chairman for the year 2024.

The motion passed with the following roll call vote:

Ayes: Abeles, Uchrin, Hauck, Berger Weingart, Abeles, Newman, Lapacyski, Saharic

Nays: None

Absent: Pittinger and Wetzel

Attorney Jon Drill Esq the meeting over to Chairman Saharic.

NOMINATION VICE CHAIRMAN:

Chairman Saharic requested a nomination for Vice Chairman.

Mr. Weingart nominated Mr. Abeles.

Mr. Wetzel moved those nominations be closed. Mr. Newman seconded the motion.

Nominations were closed.

Mr. Weingart moved, and Mr. Lapacyski seconded a motion nominating Mr. David Abeles, Vice-Chairperson for the year 2024.

The motion passed with the following roll call vote:

Ayes: Abeles, Uchrin, Hauck, Berger, Weingart, Abeles, Newman, Lapacyski

Nays: None

Absent: Pittinger and Wetzel

APPOINTMENTS:

Chairman Saharic requested a nomination for Secretary. Mr. Hauck nominated Karen Romano.

Mr. Hauck moved those nominations be closed. Mr. Abeles seconded the motion.

Nominations were closed.

Mr. Hauck moved, and Mr. Weingart seconded a motion appointing Karen Romano, Secretary for the year 2024.

The motion passed with the following roll call vote:

Ayes: Abeles, Uchrin, Hauck, Berger, Weingart, Abeles, Newman, Lapacyski

Nays: None
Absent: Pittinger and Wetzel

Chairman Saharic requested a nomination for Land Use Board Attorney. Mr. Hauck nominated Jonathan Drill Esq.

Mr. Hauck moved the nominations be closed and Mr. Abeles seconded the motion.

Mr. Hauck moved, and Mr. Abeles seconded a motion appointing Jonathan Drill Esq. for the year 2024.

The motion passed with the following roll call vote:

Ayes: Abeles, Uchrin, Hauck, Berger, Weingart, Abeles, Newman, Lapacyski

Nays: None

Absent: Pittinger and Wetzel

Chairman Saharic requested a nomination for Land Use Board Engineer. Mr. Hauck nominated Ferriero Engineering Inc.

Mr. Hauck moved the nominations be closed and Mr. Abeles seconded the motion.

Mr. Hauck moved, and Mr. Abeles seconded a motion appointing Ferriero Engineering, Inc. for the year 2024. The requested Robert Brightly PE continues to represent Lebanon Borough.

The motion passed with the following roll call vote:

Ayes: Abeles, Uchrin, Hauck, Berger, Weingart, Abeles, Newman, Lapacyski

Nays: None

Absent: Pittinger and Wetzel

Chairman Saharic requested a nomination for Planner. Mr. Hauck nominated Kendra Lelie FAICP,PP with Kyle and McManus Assoc. for the year 2024.

Mr. Abeles moved the nominations be closed and Dr. Uchrin seconded the motion.

Mr. Hauck moved, and Dr. Uchrin seconded a motion appointing., Kendra Lelie FAICP,PP with Kyle and McManus Assoc for the year 2024.

The motion passed with the following roll call vote:

Ayes: Abeles, Uchrin, Hauck, Berger, Weingart, Abeles, Newman, Lapacyski

Nays: None

Absent: Pittinger and Wetzel

ANNUAL FEES:

Annual Fees were set: Minutes: \$60.00, Land Use Laws \$45.00, by motion made by Mr. Abeles with a second by Mr. Weingart

The motion passed with the following roll call vote:

Ayes: Abeles, Uchrin, Hauck, Berger, Weingart, Abeles, Newman, Lapacyski

Nays: None

Absent: Pittinger and Wetzel

MEETING DATE &TIMES:

Councilman Berger moved, and Mr. Weingart seconded, a motion that Regular Meeting time for meetings would be 7:00 p.m. and that the dates of each month be set as the 2nd Tuesday of each month.

The motion passed with the following roll call vote:

Ayes: Abeles, Uchrin, Hauck, Berger, Weingart, Abeles, Newman, Lapacyski

Nays: None

Absent: Pittinger and Wetzel

SUB COMMITTEES

Chairman Saharic called for approval of the sub committees as listed.

**LAND USE BOARD COMMITTEE'S
2024**

- **Sub Committee: Application Review**
 1. **Joseph Hauck**
 2. Rob Weingart
 3. David Abeles
 4. James Newman, Alternate

- **Cross-Acceptance:**
 1. Chris Uchrin
 2. Brad Wetzel
 3. Lex Saharic

- **Master Plan:**
 1. **Lex Saharic**
 2. Chris Uchrin
 3. James Pittinger
 4. David Abeles - Alternate

- **Community Recognition – Awards:**
 1. **Alex Saharic**
 2. David Abeles
 3. Marianne Mathewson

• **Landmark/Historical:**

- | | |
|-----------------------|-----------------|
| 1. Joe Hauck | 2. Rob Weingart |
| 3. Marianne Mathewson | |

• **Ordinance Review:**

- | | |
|------------------------|-----------------|
| 1. David Abeles | 2. Joe Hauck |
| 3. Sam Berger | 4. Rob Weingart |

• **Storm Water and Waste Management/:**

- | | |
|------------------------|-----------------|
| 1. Chris Uchrin | 2. Rob Weingart |
| 3. Marianne Marhewson | |

***Chairs denoted by bold print.**

The motion passed with the following roll call vote:

Ayes: Abeles, Uchrin, Hauck, Berger, Weingart, Abeles, Newman, Lapacyski

Nays: None

Absent: Pittinger and Wetzel

MINUTE APPROVAL:

Mr. Hauck moved, and Mr. Abeles seconded, a motion that Regular Minutes of December 2023.

The motion passed with the following roll call vote:

Ayes: Abeles, Uchrin, Hauck, Berger, Weingart, Abeles, Newman, Lapacyski

Nays: None

Absent: Pittinger and Wetzel

FORMAL APPLICATION:

Mr. Hauck moved, with a second Mr. Abeles to grant the approval as Stated.

The motion passed with the following roll call vote:

Ayes: Abeles, Uchrin, Hauck, Wetzel, Weingart, Abeles, Newman, Lapacyski

Nays: None

Absent: Pittinger and Berger

MEMORIALIZATION RESOLUTION 2023-03 SKYWAY TRUCK PARTS

Mr. Hauck moved, and Mr. Abeles seconded, a motion memorializing Resolution 2023-03 Skyway Truck Parts.

LEBANON BOROUGH PLANNING BOARD / BOARD OF ADJUSTMENT

**SKYWAY TRUCK PARTS
121 MAIN STREET
BLOCK 13, LOT 7.01**

APPLICATION NO. 02-2023

**RESOLUTION MEMORIALIZING WAIVER OF SITE PLAN APPROVAL AND AN
INTERPRETATION THAT A NEW TRUCK PART SALES BUSINESS IS A
PRINCIPAL PERMITTED USE IN THE COM-LB ZONE TO ALLOW THE ISSUANCE
OF BUILDING AND ZONING PERMITS**

RESOLUTION NO. 2023-03

WHEREAS, Skyway Truck Parts (the “**applicant**”), with the consent of the owner of property located at 121 Main Street and designated on the Borough of Lebanon tax maps as Block 13, Lot 7.01 (the “**property**”), has made an application (the “**application**”) to the Lebanon Borough Planning Board/ Board of Adjustment (the “**Board**”) for a waiver of site plan approval from ordinance section 16.01, which requires site plan approval prior to the issuance of a building permit, to allow the conversion of the interior of an existing building (the “**building**”) from a retail store to a new truck parts sales business (the “**proposed use**”) without having to obtain site plan approval, and the application also seeks an interpretation that the proposed use is a principally permitted use on the property which is situated in the commercial local business zone (the “**COM-LB zone**”);

WHEREAS, the Board, sitting as a planning board in accordance with N.J.S.A. 40:55D-25c, has exclusive subject matter jurisdiction over the application pursuant to N.J.S.A. 40:55D-20 by application of N.J.S.A. 40:55D-25a(2) and N.J.S.A. 40:55D-60 because the application does not involve a “d” type variance pursuant to N.J.S.A. 40:55D-70d;

WHEREAS, the Board held a duly noticed public hearing on the application on February 14, 2023, with affidavits of service and publication of the notices being submitted to and on file with the Board, thereby conferring procedural jurisdiction over the application with the Board, during which hearing the applicant was represented by Alexandria De Sapio, Esq. and the Board was represented by Jonathan E. Drill, Esq. (of Stickel, Koenig, Sullivan & Drill, LLC);

WHEREAS, the following individuals testified during the hearing, were subject to cross examination and questioning, and the testimony is part of the record in this matter:

1. Anthony De Sapio (managing member of applicant/owner),
2. Bob Brightly, PE (Board engineering expert),
3. Kaitin Toth (interested party), and

4. Ed Harritz (interested party);

WHEREAS, AFTER CONSIDERING THE APPLICATION, DOCUMENTS AND TESTIMONY REFERENCED ABOVE, AND GIVING APPROPRIATE WEIGHT TO SAME, AND BASED ON ITS UNDERSTANDING OF THE APPLICABLE LAW, THE BOARD MAKES THE FOLLOWING FACTUAL FINDINGS AND LEGAL CONCLUSIONS FOR THE PURPOSE OF MEMORIALIZING IN A WRITTEN RESOLUTION IN ACCORDANCE WITH N.J.S.A. 40:55D-10g(2) ITS ACTION IN GRANTING THE APPLICATION SUBJECT TO CONDITIONS AS SET FORTH BELOW:

A. FACTUAL FINDINGS AND LEGAL CONCLUSIONS

1. **The Property, Zoning, and Past Uses.** The property is situated in the COM-LB zone and contains the building and eleven (11) off-street parking spaces. Pursuant to ordinance section 12.01-1, “a store or shop for retail business or wholesale display within the confines of a building” is a principal permitted use in the COM-LB zone. The building is currently vacant but in the recent past housed a “Mailbox USA” retail business store as a principally permitted use.

2. **The Application and Requested Relief.** As set forth above, the applicant proposes to convert the interior of the building to the proposed use – a new truck parts sales business. The application seeks a waiver of site plan approval so that the applicant can obtain zoning and construction permits without site plan approval which would otherwise be required pursuant to ordinance section 16.01-2. The Board must also determine whether the proposed use is a principally permitted use on the property so that a “d” type variance is not required and so that the Board has jurisdiction over the application as a planning board and not in its capacity as a board of adjustment.

3. **Authority to Interpret Whether Uses are Permitted.** The Board recognizes that only boards of adjustment have the express power to interpret ordinances and decide special questions under ordinances pursuant to N.J.S.A. 40:55D-70b. In fact, once a board of adjustment exercises that power in a particular case, the decision becomes final and binding on the zoning officer, other enforcement officials, and on the planning board. Colts Run Civic Ass’n v. Colts Neck Board of Adj., 315 N.J. Super. 240, 246 (Law Div. 1998). That said, our courts have recognized that planning boards have implicit authority to interpret ordinances to determine whether proposed uses are permitted so that they can determine whether they have jurisdiction to decide applications pending before them. Fallone Properties v. Bethlehem Planning Board, 369 N.J. Super. 552, 566-567 (App. Div. 2004); Terner v. Spycos, Inc., 226 N.J. Super. 532 (App. Div. 1988); Galanter v. Howell Planning Board, 211 N.J. Super. 218 (App. Div. 1986). The Board thus concludes that it has authority to interpret whether the proposed use here is permitted.

4. **Findings and Conclusions as to the Interpretation.** The Board's findings and conclusions as to the interpretation are as follows. The proposed use - new truck parts sales business – constitutes “a store or shop for retail business or wholesale display within the confines of a building” pursuant to ordinance section 12.01-1. Thus, the proposed use is a principal permitted use in the COM-LB zone and a principal permitted use on the property. As such, the Board concludes that the Board has jurisdiction over the application sitting in its capacity as a planning board.

5. **Standards for Consideration of Waiver of Site Plan Approval.** Pursuant to ordinance section 16.01-2, site plan approval is required prior to the development or improvement of any lands, including drives and off-street parking areas (except for single family residences in a residential zone). Pursuant to ordinance section 16.01-1, the Board may waive the requirement of site plan approval if “in the opinion of the Planning Board, the proposed use would not be of sufficient impact by virtue of lack of size, lack of new structures, lack of drainage and/or traffic problems or other factors to necessitate the filing of the detailed site plan.” As such, the standard for consideration of the application which seeks a waiver of site plan approval is whether “the proposed use would not be of sufficient impact by virtue of lack of size, lack of new structures, lack of drainage and/or traffic problems or other factors to necessitate the filing of the detailed site plan.”

6. **Findings and Conclusions as to Waiver of Site Plan Approval.** The Board's findings as to the site plan approval waiver are as follows. First, as reflected on the proposed interior improvement plan dated January 23, 2023 which was submitted with the application, converting the building from its prior use to the proposed use will not impact the site because no addition is proposed and none of the existing exterior doors will be modified. Second, as reflected in the Google image of the site dated January 23, 2023 and as reflected on the site layout plan dated January 23, 2023, there is sufficient space on the property and in the parking areas to accommodate the proposed use without having to install any parking spaces so that there will be no impact on the site in terms of drainage or any other factor that would necessitate submitting a detailed site plan for review and approval. Third, the Board is persuaded that there will be traffic impact to the site but the impact will be minimal. For all of the foregoing reasons, the Board finds and concludes that it can and should waive the requirement of site plan approval provided, however, that the conditions set forth below are imposed and complied with.

7. **Imposition of Conditions.** Boards have inherent authority to impose conditions on any approval they grant. North Plainfield v. Perone, 54 N.J. Super. 1, 8-9 (App. Div. 1959), certif. denied, 29 N.J. 507 (1959). Further, conditions may be imposed where they are required in order for a board to find that the requirements necessary for approval of the application have been met. See, Alperin v. Mayor and Tp. Committee of Middletown Tp., 91 N.J. Super. 190 (Ch. Div. 1966) (holding that a board is required to impose conditions to ensure that the positive criteria is satisfied); Eagle Group v. Zoning Board, 274 N.J. Super. 551, 564-565 (App. Div. 1994) (holding that a board is required to impose conditions to ensure that the negative criteria is satisfied). Moreover, N.J.S.A. 40:55D-49a authorizes a board to impose conditions on

a preliminary approval, even where the proposed development fully conforms to all ordinance requirements, and such conditions may include but are not limited to issues such as use, layout and design standards for streets, sidewalks and curbs, lot size, yard dimensions, off-tract improvements, and public health and safety. Pizzo Mantin Group v. Township of Randolph, 137 N.J. 216, 232-233 (1994). Further, municipal ordinances and Board rules also provide a source of authority for a board to impose conditions upon a developmental approval. See, Cox and Koenig, New Jersey Zoning and Land Use Administration (Gann 2022), sections 28-2.2 and 28-2.3 (discussing conditions limiting the life of a variance being imposed on the basis of the Board’s implicit authority versus by virtue of Board rule or municipal ordinance). Finally, boards have authority to condition approval on review and approval of changes to the plans by Board’s experts so long as the delegation of authority for review and approval is not a grant of unbridled power to the expert to approve or deny approval. Lionel Appliance Center, Inc. v. Citta, 156 N.J. Super. 257, 270 (Law Div. 1978). As held by the court in Shakoor Supermarkets, Inc. v. Old Bridge Tp. Planning Board, 420 N.J. Super. 193, 205-206 (App. Div. 2011): “The MLUL contemplates that a land use board will retain professional consultants to assist in reviewing and evaluating development applications” and using such professional consultants to review and evaluate revised plans “was well within the scope of service anticipated by the applicable statutes. It was the Board, and not any consultant, that exercised the authority to approve the application.” The Board concludes that the conditions set forth below are warranted and should be imposed on all of the above-mentioned bases.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD, BY MOTION DULY MADE AND SECONDED ON FEBRUARY 14, 2023, AS FOLLOWS:

B. RELIEF GRANTED

1. **Waiver of Site Plan Approval.** Provided that the conditions set forth below are imposed and complied with, the Board hereby grants a waiver from site plan approval pursuant to ordinance section 16.01-1 to allow the issuance of building permits and a zoning permit without site plan approval which would otherwise be required pursuant to ordinance section 16.01-2.

C. CONDITIONS

1. **Parking.** Parking shall be limited to the eleven (11) off-street parking spaces reflected on the site layout plan dated January 23, 2023. The applicant shall repaint the parking stall lines on the property in accordance with that shown on the site layout plan dated January 23, 2023. The applicant shall strictly monitor and enforce parking as permitted and reflected on the site layout plan dated January 23, 2023. This means that parking shall be permitted only in those areas and in those spaces designated on the site layout plan dated January 23, 2023. The owner of the property shall include provisions in all leases to this effect. The applicant shall have a continuing obligation to maintain all parking spaces and areas, which shall

include but not be limited to repainting all parking stalls. There shall be no parking on Main Street.

2. **Lighting.** An as-built existing lighting plan shall be submitted to the Borough Engineer for review and approval. No additional lighting shall be added to the property unless approved by the Board in advance.

3. **Signage.** No signage other than the address ID on the building shall be added to the site unless approved by the Board in advance.

4. **Loading.** There shall be no loading and/or unloading of vehicles on Main Street.

5. **Time to Obtain Construction Permits and Commence and Complete Construction.** The applicant shall apply for and obtain a zoning permit and any and all required construction permits no later than February 14, 2024 (which is one year from the date of the vote to grant the site plan waiver). If during said one year period, or extension thereof as granted by the Board, the applicant fails to obtain a zoning permit and all construction permits, the within approvals shall automatically expire and become null and void. The applicant shall have one (1) year from the date of issuance of the first construction permit to commence construction and obtain a permanent certificate of occupancy. If during said one (1) year period, or extension thereof as granted by the Board, work is not commenced and/or a permanent certificate of occupancy is not obtained, the within approvals shall automatically expire and become null and void.

6. **Subject to Other Laws and Approvals.** The within approval and the use of all property subject to the within approval are conditioned upon and made subject to any and all laws, ordinances, requirements, and/or regulations of and/or by any and all municipal, county, state and/or federal governments and their agencies and/or departments having jurisdiction over any aspect of the property and/or use of the property. The within approval and the use of all property subject to the within approval are also conditioned upon and made subject to any and all approvals by and/or required by any and all municipal, county, state and/or federal governments and their agencies and/or departments having jurisdiction over any aspect of the property and/or the use of the property. In the event of any inconsistency(ies) between the terms and/or conditions of the within approval and any approval(s) required by the above, the terms and conditions of the within approval shall prevail unless and until changed by the Board upon proper application.

VOTE ON MOTION DULY MADE AND SECONDED ON FEBRUARY 14, 2023:

THOSE IN FAVOR: ABELES, HAUCK, LAPCZYNSKI, NEWMAN, SAHARIC,

WEINGART & WETZEL.

THOSE OPPOSED: NONE.

The within resolution was adopted on March 12, 2024 by the following vote of Board members:

<u>Member</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
ABELES	X			
HAUCK	X			
LAPCZYSKI	X			
NEWMAN	X			
SAHARIC	X			
WEINGART	X			
WETZEL				X

ATTEST: _____
Karen Romano
Board Secretary

The motion passed with the following roll call vote:

Ayes: Saharic, Abeles, Hauck, Weingart, Newman, Lapacyski

Nays: None

Absent: Pittinger and Wetzel

Abstain: Mathewson, Uchrin, Berger,

MEMORIALIZATION RESOLUTION 2023-04 WOODHOLLOW
HERTZ CHARGING STATIONS

Mr. Hauck moved, and Mr. Abeles seconded, a motion memorializing Resolution 2023-04 Woodhollow Hertz Charging Stations.

LEBANON BOROUGH LAND USE BOARD

WOODHOLLOW ENERGY GROUP ON BEHALF OF HERTZ
1386-1390 STATE ROUTE 22
BLOCK 2, LOT 2

APPLICATION NO. 05-2023

**RESOLUTION MEMORIALIZING WAIVER OF SITE PLAN APPROVAL TO ALLOW
THE INSTALLATION OF TWO (2) ELECTRIC VEHICLE CHARGING STATIONS**

RESOLUTION NO. 2023-05

WHEREAS, Hunterdon Plaza Associates, LLC (the “**owner**”) owns an 8.5-acre lot designated on the Borough of Lebanon (the “**Borough**”) tax maps as Block 2, Lot 2, having a post office address of 1386-1390 State Route 22, Lebanon (the “**property**”), which property is situated in the commercial, research, office and manufacturing zoning district (the “**C-ROM-2 zone**”) and on which property a Hertz automobile rental facility (“**Hertz**”) is operated;

WHEREAS, Woodhollow Energy Group (the “**applicant**”) on behalf of Hertz, and with the consent of the owner, made application (the “**application**”) to the Lebanon Borough Planning Board / Board of Adjustment, which became the Lebanon Borough Land Use Board on October 18, 2023 (the “**Board**”), for a waiver of site plan approval to allow the installation of two (2) electric vehicle charging stations (the “**EV charging stations**”) in the parking lot, thereby converting two (2) of the eight (8) parking spaces that are assigned to Hertz to EV charging station spaces but to be used by Hertz (the “**proposed development**”);

WHEREAS, the Board, sitting as a planning board in accordance with N.J.S.A. 40:55D-25c, has exclusive subject matter jurisdiction over the application pursuant to N.J.S.A. 40:55D-20 by application of N.J.S.A. 40:55D-25a(2) because the application does not involve a “d” type variance pursuant to N.J.S.A. 40:55D-70d;

WHEREAS, the Board held a non-noticed public hearing on the application on October 10, 2023, 1 during which hearing the Board was represented by Jonathan E. Drill, Esq. (of Stickel, Koenig, Sullivan & Drill, LLC);

WHEREAS, the following individuals testified during the hearing, were subject to cross examination and questioning, and the testimony is part of the record in this matter:

5. Jeffrey Contreras (managing member of applicant), and
6. Bob Brightly, PE (Board engineering expert);

WHEREAS, AFTER CONSIDERING THE APPLICATION AND THE TESTIMONY REFERENCED ABOVE, AND GIVING APPROPRIATE WEIGHT TO SAME, AND BASED ON ITS UNDERSTANDING OF THE APPLICABLE LAW, THE BOARD MAKES THE FOLLOWING FACTUAL FINDINGS AND LEGAL

¹ The hearing was not noticed because N.J.S.A. 40:55D-12a does not require notice of a hearing on a request for waiver of site plan approval unless the municipal ordinance requires it, and the municipal ordinance here does not require it.

CONCLUSIONS FOR THE PURPOSE OF MEMORIALIZING IN A WRITTEN RESOLUTION IN ACCORDANCE WITH N.J.S.A. 40:55D-10g(2) ITS ACTION IN GRANTING THE APPLICATION SUBJECT TO CONDITIONS AS SET FORTH BELOW:

A. FACTUAL FINDINGS AND LEGAL CONCLUSIONS

1. **The Property, Zoning, Application and Requested Relief.** The property is situated in the C-Rom-2 zone and contains a strip mall and parking lot. Hertz operates its business within the strip mall and has eight (8) parking spaces within the parking lot assigned to it. As set forth above, the applicant proposes to convert two (2) of the eight (8) spaces that are assigned to Hertz to EV charging stations, which will be used exclusively by Hertz. The application seeks a waiver of site plan approval to allow the installation of the two (2) EV charging stations.

2. **Standards for Consideration of Waiver of Site Plan Approval.** Pursuant to ordinance section 16.01-2, site plan approval is required prior to the development or improvement of any lands, including drives and off-street parking areas (except for single family residences in a residential zone). Pursuant to ordinance section 16.01-1, the Board may waive the requirement of site plan approval if “in the opinion of the Planning Board, the proposed use would not be of sufficient impact by virtue of lack of size, lack of new structures, lack of drainage and/or traffic problems or other factors to necessitate the filing of the detailed site plan.” As such, the standards for consideration of the application which seeks a waiver of site plan approval is whether “the proposed use would not be of sufficient impact by virtue of lack of size, lack of new structures, lack of drainage and/or traffic problems or other factors to necessitate the filing of the detailed site plan.”

3. **Findings and Conclusions as to Waiver of Site Plan Approval.** The Board’s findings as to site plan approval waiver are as follows. First, pursuant to section C.5 of the Model Electric Vehicle Supply/Service Equipment and Make-Ready Parking Spaces ordinance, “an application for development for the installation of EVSE or Make-Ready spaces at an existing ... retail establishment ... shall not be subject to site plan . . . review” provided that the application meets certain requirements as follows: (1) “the proposed installation does not violate bulk requirements applicable to the property or the conditions of the original final approval of the site plan or subsequent approvals for the existing ... retail establishment, or other existing building;” (2) “all other conditions of prior approvals for the ... existing retail establishment or any other existing building continue to be met;” and (3) “the proposed installation complies with the [applicable construction codes], any safety standards concerning the installation, and any state rule or regulation concerning electric vehicle charging stations.” Additionally, section E.1 of the Model Electric Vehicle Supply/Service Equipment and Make-Ready Parking Spaces ordinance provides that all parking spaces with EV equipment “shall be included in the calculation of minimum required spaces ...”. The Board finds that by converting two (2) existing spaces to EV charging spaces, the applicant is not increasing the number of

spaces assigned to Hertz and that the property will continue to satisfy all bulk requirements applicable to the property and all conditions of the original final approval and subsequent approvals of the site plan. Thus, the Board finds that pursuant to the Model Electric Vehicle Supply/Service Equipment and Make-Ready Parking Spaces ordinance the application is not subject to site plan review. Second, the Board finds that the proposed conversion of two (2) of the existing parking spaces to EV charging stations will have an insubstantial impact so as not to necessitate the submission, review or approval of a plan. Thus, the Board finds pursuant to ordinance section 16.01-1 that it should waive the requirement of site plan approval.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD, BY MOTION DULY MADE AND SECONDED ON OCTOBER 10, 2023, AS FOLLOWS:

B. RELIEF GRANTED

1. **Waiver of Site Plan Approval.** Provided that the conditions set forth below are imposed and complied with, the Board hereby grants a waiver from site plan approval pursuant to ordinance sections 16.01-1 and pursuant to section C.5 of the Model Electric Vehicle Supply/Service Equipment and Make-Ready Parking Spaces ordinance to allow the conversion of two (2) parking spaces to the two EV charging stations.

C. CONDITIONS

1. **Subject to Other Laws and Approvals.** The within approval and the use of all property subject to the within approval are conditioned upon and made subject to any and all laws, ordinances, requirements, and/or regulations of and/or by any and all municipal, county, state and/or federal governments and their agencies and/or departments having jurisdiction over any aspect of the property and/or use of the property. The within approval and the use of all property subject to the within approval are also conditioned upon and made subject to any and all approvals by and/or required by any and all municipal, county, state and/or federal governments and their agencies and/or departments having jurisdiction over any aspect of the property and/or the use of the property. In the event of any inconsistency(ies) between the terms and/or conditions of the within approval and any approval(s) required by the above, the terms and conditions of the within approval shall prevail unless and until changed by the Board upon proper application.

VOTE ON MOTION DULY MADE AND SECONDED ON OCTOBER 10, 2023:

THOSE IN FAVOR: ABELES, HAUCK, LAPCZYNSKI, NEWMAN, BERGER, WEINGART& PITTINGER.

THOSE OPPOSED: NONE.

The within memorializing resolution was adopted on March 12, 2024 by the following vote of eligible Board members:

<u>Member</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
ABELES	X			
HAUCK	X			
LAPCZYSKI	X			
NEWMAN	X			
BERGER	X			
WEINGART	X			
PITTINGER				X

ATTEST: _____
Karen Romano
Board Secretary

The motion passed with the following roll call vote:

Ayes: Abeles, Hauck, Weingart, Abeles, Newman, Lapacyski, Berger

Nays: None

Absent: Pittinger and Wetzel

Abstain: Saharic, Uchrin, Mathewson

TOWN CENTER BLOCK 4 LOTS 1.03 AND 1.04

Preliminary Site Plan Resolution Extension of Approval

Jon Drill Esq. swore in:
Robert Brightly PE Board Engineer
Sam Gershwin Property owner

Ryan O'Sullivan Esq. of Fox Rothschild LLP presented Resolution 2023-01 in which was modified for the installation of the waterline of March 14, 2023 requesting an extension to August 24, 2025.

Mr. Gershwin stated he was approached by WAWA and gave an oversight of the delay in Town Center continuing the project. WAWA will be submitting a joint application. Town Center will submit an application revisiting the Site Plan.

Mr. Hauck moved, and Mr. Weingart seconded, a motion approving the Town Center Extension of Resolution 2021-03 a Preliminary Site Plan.

The motion passed with the following roll call vote:

Ayes: Saharic, Abeles, Uchrin, Hauck, Weingart, Abeles, Newman, Lapacyski

Nays: None

Absent: Pittinger and Wetzel

Abstain: Berger, Mathewson

600 CORPORATE DRIVE Block 4 Lot 1.05 Use Variance and Minor Site Plan Application
Formal

Board Attorney Jon Drill Esq. Swore in the following individuals for testimony.

Robert Clerico PE, PP Van Cleef Engineering Associates

Brett Harris PP with KMA representing Lebanon

Robert Brightly PE, PP Boswell Engineering representing Lebanon

Sam Gershwin owner of neighboring properties

Kimberly Forino Esq. with Gebhart & Kiefer presented the Use Variance and Minor Site Plan Application.

165-153A C-Rom 2 Zone does not allow Self Storage facilities.

Application was deemed complete.

Robert Clerico PE, PP Testified.

The application proposes an internal conversion of the building from the current office layout to self-storage. The Existing building is vacant. Water and Sewer capacity is in place.

The proposed storage units would require 24 hour 7 day a week access.

The internal plan shows 809 units.

488 parking spaces existed. 20 spaces to be removed for a buffer. 468 parking spaces proposed. 11 spaces required.

No outdoor storage is proposed. No overnight parking proposed.

The Board suggested adding a Security Gate and requested no overnight parking be added to the lease agreement.

The Eastside access will remain. Requesting westside access for trucks to unload.

Mr. Gershwin opposed unloading trucks on the West side. Stated lighting will be a problem for the Town Center residents. Mr. Gershwin requested blackout windows.

A ten-minute recess was taken to discuss between the two landowners.

A straw pole was taken from the Board. Five members were in favor of the westside truck dock with the suggested buffer and parallel parking by Engineer Brightly. Two Board members were against the westside dock.

Side yard Buffer is 35 feet.

The Board requested to see the leasing agreement. Must comply with the Fire regulation of what can and can not be stored.

Corridors must have cameras.

Sign no more than 200 feet. Must comply with zoning regulations.

The Board Extended the Hearing to April 9, 2024 at 7 pm. Extending to July 3, 2024 if necessary.

The motion passed with the following roll call vote:

Ayes: Saharic, Abeles, Uchrin, Hauck, Weingart, Abeles, Newman, Lapacyski, Berger, Mathewson

Nays: None

Absent: Pittinger and Wetzel

Abstain:

OPEN PUBLIC SESSION

Chairman Saharic opened the floor for public questions. There being no comment the floor was closed.

MISCELLANEOUS:

Secretary Romano submitted to the Board for Review of Resolution 58-2024

RESOLUTION OF THE BOROUGH OF LEBANON COUNTY OF HUNTERDON OPPOSING ASSEMBLY BILL NO. 4/SENATE BILL NO. 50, WHICH PROPOSES TO OVERHALL THE FAIR HOUSING ACT (“FHA”) IN A WAY THAT IMPOSES UNREALISTIC OBLIGATIONS WITH UNREALISTIC DEADLINES BASED UPON ONEROUS STANDARDS.

ADJOURN

Dr. Urchin moved, Mr. Abeles seconded a motion to adjourn, there being no further business to come before the Board. The motion was passed by unanimous vote. The meeting was adjourned at 9:35 p.m.

Respectfully submitted,

Karen Romano
Land Use Board Secretary