

MINUTES OF THE BOARD OF ADJUSTMENT OF THE TOWNSHIP OF PENNSAUKEN

A public meeting of the Zoning Board of Adjustment of the Township of Pennsauken, in the County of Camden, in the State of New Jersey was held on the above date via Zoom Video Communications. Chairwoman Butler called the meeting to order at 7:00 P.M. and led the flag salute. Roll call disclosed the following members present: Lou Morales, Paul Hoyle, Lysa Longo, Shirley Butler, Darlene Hannah, Diane Piccari, Patrick Olivo and Duke Martz. Acting Solicitor Steve Boraske, Esq., Zoning Board Engineer, Douglas White, Planning and Zoning Coordinator, Gene Padalino and Secretary Nancy Ellis were also on the video call.

The Chairwoman announced that the meeting was being held in accordance with the Open Public Meetings Act, notice has been sent to two local newspapers, and also posted on the Bulletin Board in the Municipal Building.

HEARINGS:

WILKINS GARCIA (Continued from October 21, 2020) - Seeking a use variance for 13 parking spaces on vacant land in connection with an existing non-conforming restaurant use and also seeking approval for outdoor tables and chairs in the P-1 zone where it is not a permitted use and any other variances and waivers that may be required by the Pennsauken Zoning Board. Premises located at 5010 Westfield Avenue, Block 4706, Lot 3 in Zoning District P-1.

Mr. Wilkins Garcia, Property Owner located at 5010 Westfield Avenue who resides at 1586 Tinsman Avenue, in Pennsauken, Mr. Don Vid Aldo, Architect, 344 Camelot Court, Cinnaminson, NJ and Michael Avia, Professional Planner and Engineer, 228 West White Horse Pike, Berlin, NJ came forward to testify and were duly sworn by the Solicitor.

Mr. Mike Avia testified that they appeared before the board on October 21, 2020 and at that time, there wasn't a full board to hear their application. Therefore, they postponed the hearing to this evening and since then they have revised their plans according to the Zoning Board Engineer's recommendations in his letter dated October 7, 2020. Mr. Avia stated that they have revised and submitted their site plan dated December 1, 2020 which should address any issues and provide clarification for the board.

Mr. Garcia testified that his restaurant is open Tuesday through Sunday and the hours of operation are from 9 am until 9 pm and he needs more parking spaces for his customers to park, pick up their take-out orders and leave. He has especially has needed more parking spaces during the pandemic. Mr. Garcia further testified that it will be beneficial to have a safe parking area for his customers and for his employees as well.

Mr. Aldo testified that they propose 13 parking spaces and 1 ADA handicap parking space and a handicap ramp to access the restaurant as well. Mr. Aldo further stated that they are seeking a use variance because a principal parking lot is not a permitted use in the P-1 zone. Mr. Aldo testified as to the positive and negative criteria for the application. As for the positive criteria, Mr. Aldo testified that the parking lot will advance the purposes of the land use laws in that an open space in the township, which otherwise would probably remain vacant is particularly suited to be used for a parking lot for the adjacent restaurant. The parking lot will also promote the general welfare and safety for the public good. The parking lot will be in a safe location next to the restaurant rather than the restaurant patrons having to park on or across the street and the positives outweigh any detriments. The parking lot will offer convenience and safety and it also meets the needs of the restaurant. Mr. Aldo further testified that the property is particularly suited for the use. The lot is currently vacant, it is adjacent to the restaurant and both the vacant lot and the restaurant are owned by the applicant. Mr. Aldo stated that besides the use variance, they will also need bulk variances and waivers due to the narrowness of the lot. Mr. Aldo further testified that there really isn't anything else that could be developed on the lot and the proposed use is the best use for a piece of property that is underutilized.

Mr. Douglas White, Zoning Board Engineer came forward to testify and was duly sworn by the Solicitor.

Mr. White went over and discussed points in his review letter dated October 7, 2020 with the applicant and the board. The applicant agreed to comply with all of Mr. White's recommendations, suggestions and comments.

The meeting was open to the public. There being no one who wished to speak, the meeting was closed to the public.

The Solicitor made the following factual findings: This is an application by Wilkins Garcia, owner of La Cocina Restaurant and he is seeking a use variance and minor site plan approval to permit the use of 5010 Westfield Avenue, Block 4706, Lot 3 in the P-1 Zoning District as a proposed parking lot for the existing, adjacent restaurant, which is also owned and operated by the applicant. To permit the parking lot use and to permit the conversion of the vacant lot into a parking lot, the applicant requires initially a use variance, because the principal parking lot use is not permitted in the P-1 Zone as well as the site plan approval. We have a review letter from our engineer dated October 7, 2020 and the initial submission review letter calls out some submission waiver items that may have been submitted by the applicant as part of the revised plans. These are minor items for site plan details, such as listing adjacent property owners, providing proof of submission to the Camden County Soil Conservation District. The applicant requests submission waivers from submitting storm water drainage calculations, an environmental impact statement and a traffic study. The applicant will have to submit for all outside approvals as a condition of approval from the Zoning Board. Westfield Avenue is a county road, so the application will need Camden County Planning Board review and the Soil Conservation District. The applicant also requires several bulk variances in addition to the use variance. The required bulk variances are for a front yard setback. The required setback is 40 feet and the applicant is providing 5.2 feet front yard setback. The impervious coverage is going from 75.96% where 75% is the total maximum coverage in the P-1 Zone. The applicant is just a little over the maximum amount of impervious coverage. The applicant also proposes non-conforming parking space dimensions. The applicant also requires variances related to the landscape buffer, the design of the buffer, the type and height of the plantings proposed as well as the width of the buffer strip. A 5.73-foot buffer strip is proposed whereas 12 feet is required. The applicant also requires a variance to permit the parking lot to be paved without curbing. Whereas, our code requires that parking lots be paved and curbed. The board has imposed conditions to the approvals, are revisions and resolution of any outstanding design elements or details in the board engineer's review letter, particularly one item that was discussed was a final drainage, stormwater management design element. The applicant has agreed to work with our board engineer and our zoning officer to resolve that item and if for some reason that item can't be resolved, the applicant may need to come back to the board for clarification on what the board is looking for. For a use variance, the applicant has to demonstrate special reasons, the positive and negative criteria and why the variance should be granted. Generally, the special reasons fall under two categories, when the refusal to allow the variance would impose an undue hardship on the applicant or when the proposed project carries out a purpose of the municipal land use law. In addition, generally for a use variance when a variance is supportive by an argument that it advances purposes of the land use law. The applicant also has to show that the general welfare is improved or served by the application because the property is particularly well suited for the non-conforming use proposed by the applicant. The applicant also has to show the negative criteria, which the variance can be granted without substantial detriment to the public good and that factor concerns the impact of the non-conforming use on the adjacent property owners and the applicant also has to show the use at the proposed site would not substantially impair the intent and purpose of the zone plan, our township masterplan and land development regulations. The applicant's planner testified and addressed each of the criteria. The planner testified that special reasons included the safety and general welfare, because the parking lot will provide safety for patrons as well as to the employees of the restaurant. In addition, the proposed non-conforming use will meet the need for the surrounding residences, for the community and for the township by making us of a site that otherwise has no better use due to the configuration of the site and the adjacent restaurant use and some of the other factors the applicant's planner discussed.

Mr. Longo motioned to accept the fact finding. Miss Piccari seconded.

Mr. Hoyle motioned to grant the application and stated that he doesn't believe a parking lot use for the adjacent restaurant will not harm anything as long as the project is properly done and the applicant's professionals work with the board engineer. Miss Hannah seconded. Roll call: Lou Morales, Paul Hoyle, Lysa Longo, Shirley Butler, Darlene Hannah, Diane Piccari and Duke Martz-Aye. None Opposed.

ALEXANDER STERIN - Seeking a use variance to use the existing branch bank building for a Laundromat which is not a permitted use in the R-3 zone. The applicant is also seeking a site plan waiver and any other variances or waivers noted by the board or its staff during the course of review. Premises located at 2501 Merchantville Avenue, Block 4808, Lots 1 and 7 in Zoning District R-3.

Mr. Patrick McAndrew, Esq., came forward to represent the applicant. Mr. McAndrew testified that they are seeking a use variance to permit the use of a laundromat at the site of a former bank branch. Therefore, they will be going from one commercial use to another at the site. The building is a small 1,400 square foot building and on the first floor they would like to have a laundry service.

Mr. Alexander Sterin, came forward to testify and was duly sworn by the Solicitor.

Mr. Sterin testified he has been in business for 26 years and he believes the proposed location is well suited for a laundromat because there is no competition in the area, it's a good location along Route 130 and he intends to use the site as it is. Mr. Sterin further testified there are 14 parking spaces at the site, which is adequate for the laundromat. The applicant further testified that the hours of operation will be from 7 AM until 10 PM and a manager will always be on site and fully attended during business hours. Mr. Sterin further testified that he will use a dumpster on site for approximately 8 bags of trash per week and it will be picked up every Wednesday and Friday. The applicant further testified that they will get permits for the signage and there will be no negative impact to the area since all operations are done inside the building.

Upon query, Mrs. Butler was informed by the applicant that there will be 2 people on site at all times and he has his own maintenance crew as well. Mr. Sterin further informed Mrs. Butler that he will not be making any changes to the property and there are currently 2 handicap parking spaces at the site.

Upon query, Mrs. Longo was informed by the applicant that even though the property is located near a residential area, he chose this location because it is along Route 130 because and there no other laundromats in the area with specialty machines.

Mr. Morales stated he believes a laundromat doesn't fit at the proposed location.

Upon query, Miss Hannah was informed by the applicant that he did look at other properties in Pennsauken. However, he believes this location was the most suitable for a laundromat. The applicant further stated that he spoke with some of the neighbors and they liked the idea of having bigger machines to use in their area.

Mr. Martz stated that he does not believe a laundromat is suitable for this location, he's worried about the hours of operation, the transients it will bring to the primarily residential neighborhood, the noise and the negative impact it will have on the residents in the area.

Mrs. Butler stated that she believes there is a safety issue for families who would bring their children to the laundromat. There is no buffer at the property and the building is located on a hazardous corner.

Mrs. Longo stated she is concerned about people hanging out at that location and the impact on the neighbors if it were a laundromat.

Miss Piccari stated she believes a laundromat would be a detriment to the area.

Mr. Olivo stated he is concerned about the noise and safety and believes a laundromat at that location would be a detriment.

Mr. Hoyle stated he believes a laundromat does not fit at that location.

The meeting was open to the public.

Ms. Madilyn Rabino, 2437 Merchantville Avenue came forward to testify and was duly sworn by the Solicitor.

Ms. Rabino expressed her concerns for the effects of exhaust vents and fumes going into the neighborhood from a laundromat, the trash, the noise, lighting and signage at the site. Ms. Rabino also expressed her concerns for transient people coming to her neighborhood as well as additional traffic.

Ms. Camilla Viteo, 5531 Merchantville Avenue came forward to testify and was duly sworn by the Solicitor.

Ms. Viteo stated she believes a laundromat at that location will affect the quality of her life. She believes it will attract transients and the wrong kind of people and there will be children hanging around the property. Ms. Viteo further stated that traffic and the parking situation in her neighborhood is already bad enough and there is a laundromat right up the street on Westfield Avenue if someone needs to use it.

Mr. Matt McDevitt, 5600 North Route 130 came forward to testify and was duly sworn by the Solicitor.

Mr. McDevitt stated that he is here representing Temple Lutheran Church across the highway from the former bank building. Mr. McDevitt stated that he believes a laundromat is not anywhere similar in use to a bank, the impact on the neighborhood such as traffic and parking will spill over into the neighborhood and it would be a detriment.

There being no one else who wished to speak, the meeting was closed to the public.

The Solicitor made the following factual findings: This is an application for a use variance to permit the use of a former bank building for a laundromat. The premise is located at 2501 Merchantville Avenue, Block 4808, Lots 1 and 7 in R-3 Zoning District. The key relief required by the applicant is a use variance, which the board is familiar with the criteria. To grant a use variance, the applicant has to prove both the positive and negative criteria. For the positive criteria, special reasons can be shown when the refusal to allow the project would impose an undue hardship on the applicant and/or when a proposed project carries out a purpose of zoning as defined by the land use law. As far as the positive criteria, the applicant testified that it's currently a vacant building that has been vacant for some time and that they believe it's a relatively non-intense use and is therefore particularly well suited for the property and will advance the purposes of the general welfare and some of the additional purposes of the land use law. Such as making adequate use of available open space in the township. In addition to the positive criteria, the applicant must satisfy the negative criteria for the use variance to be granted without substantial detriment to the public good. There were many questions imposed from the public present and the board regarding the impact of the use on the adjacent residential properties. In addition, the board has to consider whether the use will substantially impair the intent and purposes of the land use law, zone plan and zoning ordinance. The applicant made the argument that what could occur at the property, what was a preexisting commercial use in the R-3 zone and it's being replaced with a commercial use and the board should consider if the proposed use will be a more intense commercial use than the former commercial use of the property.

Miss Hannah motioned to accept the fact finding. Miss Piccari seconded.

Mr. Martz motioned to deny the application and stated that he believes a laundromat at this site will not benefit the community and it would cause a disruption to the neighborhood. Mr. Morales seconded. Roll call: Lou Morales, Paul Hoyle, Lysa Longo, Shirley Butler, Darlene Hannah, Diane Piccari and Duke Martz-Aye. None Opposed.

INFORMAL REVIEW:

Proposed physicians' Office. Premises locates at 2932 Haddonfield Road, Block 3602, Lot 4 in Zoning Districts P-1 and R-3.

A conceptual site plan was presented to the board as to what is proposed at the site. The future applicant is looking to waive the majority of the site plan and will make minor changes to allow a cardiac/vascular medical office to occupy the site of a former bank building. The future applicant stated that there will only be one doctor who is highly specialized in one area, he will see as many as 2 to 4 patients per hour and no medical procedures will be done at the site.

CORRESPONDENCE:

Upon query, Mr. Padalino was informed by Darlene Hannah, Duke Martz and Patrick Olivo that they completed the required stormwater course. Lysa Longo informed Mr. Padalino that she will complete the course before the next meeting on December 28th.

MINUTES:

It was moved, seconded and unanimously agreed to approve the meeting minutes from November 18, 2020 and December 2, 2020.

RESOLUTIONS:

RESOLUTION #Z-2020-28 - granting **ANTHONY MOTA** a use variance to permit a tattoo shop in a C-1 zone where it is not a permitted use and any other variances and waivers that may be required by the Pennsauken Zoning Board. Premises located at 3827 A Marlton Pike, Block 5832, Lot 2 in Zoning District: C-1

RESOLUTION #Z-2020-29 granting **JORDANO HERNANDEZ** 48.4 feet of relief from the front yard fence setback requirement of 20 feet for a 4' vinyl fence. Applicant is also seeking 5 feet of relief from the side yard

setback requirement of 5' and also seeking 5' of relief from the 5' setback requirement from the dwelling of the house for a (7.2 x 7') shed and any other variances and waivers that may be required by the Pennsauken Zoning Board. Premises located at 2805 Cove Road, Block 5014, Lot 2 in Zoning District R-3.

BILLS:

It was moved, seconded and unanimously agreed to pay the following bills:

T&M Associates-Engineering Services for A.C. Pellegrino Auto-***\$4,005.00***

T&M Associates-Engineering Services for 5115 Phillips, LLC-***\$2,055.00***

T&M Associates-Engineering Services for 4325 Haddonfield Road (Dental Office)-***\$1,555.00***

T&M Associates-Engineering Services for 7245 Westfield Solar Landscape, LLC-***\$2,855.00***

T&M Associates-Engineering Services for A.C. Pellegrino Auto-***\$1,727.50***

T&M Associates-Engineering Services for A.C. Pellegrino Auto-***\$1,377.50***

Florio, Perrucci, Steinhardt & Cappelli-Monthly Retainer-***\$1,134.67***

Florio, Perrucci, Steinhardt & Cappelli-Legal Services for Alberto Quintana-***\$340.00***

Florio, Perrucci, Steinhardt & Cappelli-Legal Services for Chery Hill-***\$340.00***

Florio, Perrucci, Steinhardt & Cappelli-Legal Services for Anthony Mota-***\$459.00***

Florio, Perrucci, Steinhardt & Cappelli-Legal Services for Jordano Hernandez-***\$340.00***

Florio, Perrucci, Steinhardt & Cappelli-Legal Services for Yajaira Ramos-***\$391.00***

COORDINATOR'S REPORT:

None

There being no further business; it was moved, seconded and unanimously agreed to adjourn the meeting at 9:45 P.M.

Respectfully submitted:



Nancy L. Ellis, Board Secretary