

**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: Paul Hoyle, Lysa Longo, Shirley Butler, Diane Piccari, Patrick Olivo, and Duke Martz. Acting Solicitor Steve Boraske, Esq., Zoning Board Engineer Douglas White and Planning and Zoning Coordinator, Gene Padalino and Secretary Nancy Ellis were also on the video call.

Patrick Olivo assumed the seat of absent member Lou Morales.

Chairwoman Butler 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:**

**TERRI WHEELER**-Seeking 3 feet of relief from the side yard setback requirement of 20 feet for a 15' x 24' semi-inground pool and 20 feet of relief from the 20-foot fence setback requirement and any other variances or waivers that may be required by the Pennsauken Zoning Board. Premises located at 6758 Walnut Avenue, Block 3105, Lot 17 in Zoning District R-3.

Terri Wheeler, 6758 Walnut Avenue came forward to testify and was duly sworn by the Solicitor.

Ms. Wheeler testified she wants to install a 15' x 24' semi-inground pool. She stated she lives on a corner lot and she needs 3 feet of relief in order to install the pool. The applicant further stated she needs a variance to replace an existing 4-foot chain-link fence with a 6-foot cedar fence on her property.

Upon query, Miss Piccari was informed by the applicant that she has an existing patio.

Upon query, Mrs. Longo was informed by the applicant that the 4-foot chain-link fence was at the property when she purchased it.

Upon query, Mr. Martz was informed by Mrs. Wheeler that there is an existing concrete patio at on her property and she will not be installing a deck.

The applicant informed the Solicitor that the improvements she will be making will be esthetically pleasing, the fence will make the property safer and the pool will be for her personal enjoyment. The applicant further informed the Solicitor that she had no complaints or concerns from her neighbors.

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: The applicant is Terri Wheeler. The subject property is 6758 Walnut Avenue, Block 3105, Lot 17 in Zoning District R-3. The R-3 zone requirement is that all fences in residential districts must be located no closer than 20 feet from the front building line. The applicant is also seeking relief for a semi-inground pool and associated improvements. Therefore requiring 3 feet of relief from the side yard setback requirement of 20 feet and 20 feet of relief from the fence setback requirement of 20 feet. The board can grant the variances as either a C1 hardship variance or a C2 substantial benefit variance. A C1 hardship variance can be granted when the board finds that due to the existing conditions or the unique shape of the property it would be hard for the applicant to comply with our requirements and when relief is justified. A C2 substantial benefit variance can be granted when the board finds that the application advances the purposes of the municipal land use law, which include the promotion of health, welfare and safety and also includes the beautification of the property and therefore, the township and whether the improvements advance the intent and purposes of the land use law. If so, the board also has to consider the negative criteria as to whether or not the variances would substantially impair the township's zoning ordinances or whether there is a substantial detriment to adjacent property owners. The applicant testified that there is no detriment to other property owners.

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

Mr. Hoyle motioned to grant the requested relief and stated he doesn't see a detriment and there are no neighbors out protesting against the application and he believes the proposed will be an improvement to the applicant's

property. Mrs. Longo seconded. Roll call: Paul Hoyle, Lysa Longo, Shirley Butler, Diane Piccari, Patrick Olivo and Duke Martz-Aye. None Opposed.

**MARIA POLO**-Seeking 4 feet of relief from the side yard setback requirement of 8 feet and 5 feet of relief from the front yard setback requirement of 30 feet for a 12' x 30' carport in the side yard and any other variances or waivers that may be required by the Pennsauken Zoning Board. Premises located at 4028 Witherspoon Avenue, Block 5837, Lot 2 in Zoning District R-2.

Maria Polo and Marlene Alba, the applicant's daughter-in-law, 4028 Witherspoon Avenue came forward to testify and were both duly sworn by the Solicitor.

Ms. Polo testified that she would like to install a car port next to her house to divert water from going in her basement.

Upon query, Mrs. Butler was informed by the applicant that she will hire a contractor to install the carport.

Upon query, Mrs. Longo was informed by Ms. Polo that there is nothing in the location next to her house where she would like to construct the carport.

Mr. Hoyle commented that he believes the carport will be close to the neighbor's house and the carport may not solve the problem with water going into her house.

Mr. Padalino was informed by the applicant that the water will be diverted away from her neighbor's house.

Upon query, the Solicitor was informed by the applicant that the carport will be 12 feet high and it will be attached to the existing house. The applicant also agreed to the condition that the carport will have gutters and downspouts and the water will be diverted directly to the street and away from her neighbor's house.

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 for bulk variance relief to permit the construction of a 12' x 30' carport in the side yard at 4028 Witherspoon Avenue, Block 5837, Lot 2 in Zoning District R-2. The R-2 zone requires the side yard be a minimum of 8 feet and the front yard be a minimum of 30 feet. To permit the proposed carport structure to be attached to the principal structure of the property the applicant requires 4 feet of relief from the side yard setback requirement of 8 feet and 5 feet of relief from the front yard setback requirement of 30 feet. The front yard setback is a preexisting non-conforming condition and the applicant does not propose to worsen that condition by adding the proposed car port. The board can grant the variances as either a C1 hardship variance or a C2 substantial benefit variance. A C1 hardship variance can be granted when the board finds that due to the existing conditions, topographic or other existing improvements to the property in compliance with our code requirements would impose a hardship on the applicant and deviation from our code requirements is permitted to alleviate that hardship. A C2 substantial benefit variance can be granted when the board finds that the application advances one or more purposes of the municipal land use law and the positive criteria have to outweigh the negative criteria and the board has to determine whether or not the variances would substantially impair the adjacent property owners and neighbors and also if there is a substantial impairment or intent to impair our township code and our zoning district regulation. The applicant would have to comply with all the standard conditions of approval and the board specifically discussed any approval on insuring that once the carport is constructed, any water runoff is directed anywhere but on the neighboring property from the proposed carport structure.

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

Miss Piccari motioned to grant the requested relief with the conditions imposed and stated she believes the applicant has a hardship with the water going into her home and she needs the carport to divert the water from her house to resolve the issue. Mrs. Longo seconded. Roll call: Diane Piccari, Lysa Longo and Patrick Olivo-Aye. Paul Hoyle, Shirley Butler and Duke Martz-Opposed.

The Board requested that the applicant continue the hearing to June 2, 2021 with a plan to make sure the carport will resolve the issue she has.

**TAMIKA SHIELDS**-Seeking a use variance to permit a weight management establishment performing services such as non-invasive lipo cavitation, wood therapy, sauna blanket etc. in a C-2 zone where it is not a permitted use and any other variances and waivers that may be required by the Pennsauken Zoning Board. The applicant is also requesting a waiver of site plan. Premises located at 6650 Browning Road (Unit U-11), Block 6211, Lot 6 in Zoning District C-2.

Tamika Shields, 6650 Browning Road, came forward to testify and was duly sworn by the Solicitor.

Ms. Shields testified that she would like to be permitted to use the proposed property to assist her clients with weight loss and teach them how to use exercise instruments.

Upon query, Mrs. Butler was informed by the applicant that she will assist one person at a time by appointment only, her business hours will be from 9 am until 5 pm during the week and 8 am until 4 pm on the weekend and there is plenty of parking at the site.

Upon query, Mrs. Longo was informed that appointments will be approximately an hour and she is the only employee at this time.

Upon query, Ms. Shields informed Miss Piccari that he went to Ohio for training so that she can train her clients how to use the instruments.

Upon query, Mr. Hoyle was informed by the applicant that there will not be any noise from the site.

Mr. Martz commented that he has no issues with the proposed use at the site.

Upon query, Ms. Shields informed the Solicitor that the unit doesn't require any renovations inside or on the outside, there is enough parking at the site for the proposed use and she will not be adding any signs at the site.

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 for a use variance located at 6650 Browning Road (Unit U-11), Block 6211, Lot 6 in the C-2 Zoning District. In our C-2 Zone and all our zones only certain specific uses are permitted and uses that are not specifically in our zoning code are considered prohibited uses. Here the applicant proposes weight management establishment. The applicant will assist clients with weight loss and exercises and this use is not explicitly written in our code. It is considered a non-permitted use and requires a use variance to move forward with the application. The applicant has also requested a site plan waiver and the board can waive a site plan review if there are no exterior construction or changes to the site. The board can consider granting a use variance if the applicant satisfies the 3 specific criteria for a use variance as set forth in the land use law. The applicant first has to show that the unit at the property is particularly well suited for the proposed use and the applicant demonstrates that the property is well suited for the use. The applicant must also show or has shown that the application promotes one or more purposes of the land use law and the promotion of the general welfare, safety, health are some purposes the board could consider possibly advanced by this application. The board may also consider is the use of an open-available business location, is an adequate use of space in the township. The board also must be satisfied that the applicant has met the negative criteria. The applicant must show that there is no substantial detriment to the public and no substantial impairment to the township code or zoning ordinance. The proposed use is similar to some of the commercial uses permitted in the C-2 zone. It's a business use. The board may consider the use may not be a substantial impairment to the zoning code.

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

Mr. Martz motioned to the use variance and the site plan waiver. Mr. Martz stated the use will be a benefit to the community. Mr. Hoyle seconded. Roll call: Paul Hoyle, Lysa Longo, Shirley Butler, Diane Piccari, Patrick Olivo and Duke Martz-Aye. None Opposed

**ACJC PROPERTY MANAGEMENT, LLC (Continued from April 7, 2021)**-Seeking site plan approval for a parking lot for storage of trucks and containers and any other variances and waivers that may be required by the Pennsauken Zoning Board. Premises located at 475 Derosse Avenue, Block 1005, Lot 3 in Zoning District R-3.

Mr. Joseph Bennie, Esq. came forward to represent the applicant and stated that the applicant was granted a use variance by the board on November 16, 2020 and they intend to comply and honor the conditions imposed to

the use variance approval to landscape the property and store 2 trucks and 2 containers at the property. There will be no building constructed at the site.

Mr. John Clark, 311 Monroe Avenue, Cherry Hill, NJ, Mr. Anthony Clark, 313 Monroe Avenue, Cherry Hill, NJ, Mr. Mike Galante, Professional Engineer, 76 Argyle Avenue, Blackwood, NJ and Mr. Douglas White, Zoning Board Engineer all came forward to testify and were duly sworn by the Solicitor.

Mr. John Clark testified that they are not making any changes to the property other than cleaning it up, removing heavy brush, installing a fence, landscaping and adding stone to the property for parking their trucks and containers.

Mr. Galante testified that the applicant proposes to landscape the site by adding 82 arborvitae trees and additional landscaping along the front of the site. They have revised the original plan and it is dated May 10, 2021 and the change they have made is to set the proposed fence back further from the property line to accommodate the landscape buffer. They will be adding stone to the site as well as plant seed and grass. They will be installing a rolling gate at the property as well. There will be no structures added to the site and nor will there be any adverse drainage issues from the site.

Mr. Clark testified that they have owned the property since October 2020, they will be cleaning up the property and it will be nice for the neighborhood. Mr. Clark further stated that are only storing 2 trucks and 2 containers at the site.

Upon query, Mrs. Longo was informed by the applicant that the hours of operation will be from 8:00 AM until 4:30 PM.

Mr. Martz stated that he believes the improvements will be beautiful and he is happy with the project.

Mr. Hoyle stated he has no issues with the project and he believes the property will look nice.

Mr. Douglas White came forward and went over his revised review letter dated May 14, 2021. The applicant agreed to all of Mr. Whites comment, recommendations and suggestions in his review letter.

Mr. John Clark testified that there will be no customers or public coming to the site. There will only be 2 employees and there is no need for sidewalks at the site. Mr. Clark further stated that there is no need for electric service, security cameras or additional lighting at the site.

Mr. Galante informed Mr. Martz that they will modify the grading and stone, add a circulation pad and green area at the site.

The meeting was open to the public.

Mr. Frank Hillman, 428 Derosse Avenue came forward to testify and was duly sworn by the Solicitor.

Mr. Hillman testified that he lives directly across the street from the property and he believes the applicant is doing a great job at the site. He further stated that the applicants have been in communication with the neighbors.

Ms. Mary Hillman, 428 Derosse Avenue came forward to testify and was duly sworn by the Solicitor.

Ms. Hillman testified she has lived at her house across the street from the site for 44 years. She stated that she doesn't have any complaints and believes the project will be very nice and pretty to look at.

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 preliminary and final site plan approval. The property is located at 475 Derosse Avenue, Block 1005, Lot 3 in the R-3 Zoning District. The applicant was granted a Use Variance for this application towards the end of last year. The board approved the use variance and memorialized by Resolution #Z-2020-30. The use variance permitted the use of the subject property as essentially a parking lot for the storage of a limited number of trucks and containers. The applicant's use variance approval was conditioned on a number of terms. One was the applicant would return to the board with a full and complete site plan, which is why they are here this evening. The applicant presented an engineer as well as the owners of ACJC Management and they generally described the site improvements and went over the site plan for the board and answered all of the questions for the board and the board engineer. Ultimately, they presented enough evidence that the board could determine that the property and location as proposed meets all the requirements of our site plan ordinance. To assist with that determination, the board should look at the board engineer's review letter and the comments and recommendations of the board engineer and determine that the site plan that is proposed

is compliant with our code, with the exception of any variances or waivers. There are also submission waivers. The items are set forth in our board engineer's review letter, which is dated February 21, 2021 and it was last revised on May 14, 2021. Variances were required for lot frontage, as the board engineer explained it is an existing non-conforming condition and it is not being made worse by the application. There are also design variances, whereas there are areas that have to be paved and curbed. Here, the applicant is not proposing to pave and curb the parking areas for the trucks that are permitted to be on site. There were several conditions of approval the board discussed. The first is that all outstanding and continuing conditions, including the restrictions on the intensity of the use imposed by the board by way of use variance approval remain in full force and effect. So, nothing is changing to some of the limits the board imposed which are the number of trucks, the number of containers and conditions of that sort the board previously imposed. In addition, the second condition to the approval is the applicant's satisfaction and compliance with the comments and recommendations in the engineer's review letter. There are some design items that the board engineer needs to review and to ensure that the landscaping, stormwater management, traffic generation and similar issues are compliant with our township code. If the board engineer has any concerns about any of these items or questions that he feels need to be brought before the board and can't be resolved and in compliance, the applicant has agreed to return to the board to address those items as necessary. In addition, the applicant will address all the outstanding comments in the engineer review letter relating to lighting, buffering, grading, drainage, and those other comments and conditions. The board engineer also requested that regarding the stormwater management, the applicant submit a report for evidence demonstrating that the application is not a major development. If it is determined that this is a major development, the applicant will have to return to the board to address some of those new items. The one other item the board discussed is waiving the posting of a maintenance bond and the ordinance reads that it is at the discretion of the board to waive the maintenance bond.

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

Mr. Hoyle motioned to grant the preliminary and final site plan approval with all the conditions imposed and to also waive the posting maintenance bond. Mr. Hoyle further stated that A&J have been in business in Pennsauken for years, they do a wonderful job at maintaining their property and he believes they will make vast improvements at the proposed property. Mr. Martz seconded. Roll call: Paul Hoyle, Lysa Longo, Shirley Butler, Diane Piccari, Patrick Olivo and Duke Martz-Aye. None Opposed

**CORRESPONDENCE:**

None

**MINUTES:**

None

**RESOLUTIONS:**

**Resolution #Z-2021-08** granting **RAGHBIR SINGH** Preliminary and Final stie plan approval with variances and waivers to convert an existing service station repair building to a convenience store. Premises located at 3347 Haddonfield Road, Block 2401, Lot 4 in Zoning District C-1.

**BILLS:**

T&M Associates-Engineering Services for various applications-\$926.25.

**COORDINATOR'S REPORT:**

None

There being no further business; it was moved, seconded and unanimously agreed to adjourn the meeting at 9:40 P.M.

Respectfully submitted:



Nancy L. Ellis, Board Secretary