

**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 at the Pennsauken Municipal Building, 5605 N. Crescent Boulevard and also via Zoom Video Communications. Vice Chairwoman Hannah called the meeting to order at 7:00 P.M. and led the flag salute. Roll call disclosed the following members present: Lou Morales, Lysa Longo, Darlene Hannah, Diane Piccari, Osvaldo Alves, 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 present.

Vice Chairwoman Hannah 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.

Patrick Olivo assumed the seat of absent member Shirley Butler and Osvaldo Alves assumed the seat of absent member Paul Hoyle.

**HEARINGS:**

**JAMES CASEY** - Seeking 8 feet of relief from the front yard fence setback requirement of 20 feet for a 6-foot vinyl fence in the front yard and any other variances and waivers that may be required by the Pennsauken Zoning Board. Premises located at 5026 Woodbine Avenue, Block 5302, Lot 1 in Zoning District R-2.

James Casey, 5026 Woodbine Avenue came forward and was duly sworn by the Solicitor.

Mr. Casey testified that he needs a variance to install a fence. His side yard has no curb or sidewalk, people cut through his yard and he wants to install a fence for the safety of his kids and his dog.

Upon query, Miss Hannah was informed by the applicant that he will hire Audubon Fencing Company to install the fence.

Miss Piccari stated she visited the property and she understands that the applicant needs the fence for safety and privacy.

Upon query, Mrs. Longo was informed by the applicant that he will install 2 gates in the fence.

Upon query, Mr. Martz was informed by the applicant that the fence will not be installed in front of the existing garage on his property.

The meeting was open to the public.

Ms. Sulena Rivera, 5200 Woodbine Avenue came forward to testify and was duly sworn by the Solicitor.

Ms. Rivera testified she is in support of the applicant installing the fence.

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 6-foot, vinyl fence at the premises located at 5026 Woodbine Avenue, Block 5302, Lot 1 in Zoning District R-2. The applicant, James Casey is seeking 8 feet of relief from the front yard fence setback requirement of 20 feet. The board can approve the application if the board feels the applicant has satisfied the statutory requirements. The application can be granted a C1 hardship variance or a C2 substantial benefit variance. A C1 hardship variance can be granted due to existing conditions, creating a hardship at the property which would make it impossible or difficult for the applicant to make the improvements without a variance. A C2 variance can be granted if it advances one or more purposes of the municipal land use law and promotes the general welfare, making good use of light air, open space, improving the visual esthetics of the subject property

in the township and the benefits outweigh any detriments.

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

Mr. Olivo motioned to grant the requested relief and stated he believes the applicant needs the fence for his family and it will deter people from cutting through his yard. Miss Piccari seconded. Roll call: Lou Morales, Lysa Longo, Darlene Hannah, Diane Piccari, Osvaldo Alves, Patrick Olivo and Duke Martz-Aye. None Opposed.

**NANCY LOPEZ** - Seeking a variance for a 20' x 26' carport which will exceed the maximum accessory structure size of 400 square feet as per Township ordinance number 141-78(B) and also 2 feet of relief from the side yard setback requirement of 5 feet for an accessory structure any other variances and waivers that may be required by the Pennsauken Zoning Board. Premises located at 8110 Day Avenue, Block 1509, Lot 11 in Zoning District R-3.

Nancy Lopez, 8110 Day Avenue came forward to testify and was duly sworn by the Solicitor.

Ms. Lopez testified she needs a variance for the as built carport. Ms. Lopez further testified she had the carport installed approximately 3 ½ years ago and she didn't know she needed a permit at the time it was constructed.

Upon query, Miss Hannah was informed by the applicant that she has lived at the property for 6 years and she has not constructed any other additions to the house.

Upon query, the applicant informed Mrs. Longo that the carport is metal, it is open on all sides and it has a roof on 4 posts.

Upon query, Miss Piccari was informed by the applicant that the carport is to keep her vehicles covered.

Upon query, Ms. Lopez informed Mr. Olivo that the carport is anchored down and there are no drainage issues.

Upon query, Mr. Martz was informed by the applicant that a concrete driveway extends from the front all the way back to a shed at the rear of her property.

Upon query, the applicant informed the Solicitor that the carport is an improvement to her property and it is used for the safety and security of her vehicles.

The applicant presented a picture of the carport to the board and it was marked into evidence as Exhibit A-1.

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 2 bulk variances by Nancy Lopez for the property located at 8110 Day Avenue, Block 1509, Lot 11 in the R-3 Zoning District. The R-3 Zoning District limits accessory structures to 400 square feet and the applicant has constructed a carport that is 550 square feet. Therefore, the applicant requires the relief to permit the oversized-accessory use carport. The applicant also requires 2 feet of relief from the side yard setback requirement of 5 feet based on the location of the existing carport. The applicant testified that the carport is to store his vehicles and other equipment and to improve the overall appearance of the property. This application can be granted as a C1 hardship variance or a C2 substantial benefit variance.

Mr. Olivo motioned to accept the fact finding. Mr. Martz seconded.

Mr. Olivo motioned to grant the application with the condition that the applicant obtains a permit if electric is installed in the carport in the future. Mr. Olivo further stated that he believes the carport is not a detriment, the carport is behind a vinyl fence and is not visible to the public. Mrs. Longo seconded. Roll call: Lou Morales, Lysa Longo, Darlene Hannah, Diane Piccari, Osvaldo Alves, Patrick Olivo and Duke Martz-Aye. None Opposed.



Duke Martz left the meeting.

**CHRISTINA BUI** - Seeking a use variance to permit a jewelry store in a P-1 zone where it is not a permitted use. Premises located at 5043 Westfield Avenue, Suite A Block 4702, Lot 12 in Zoning District P-1.

Mr. Matthew Zabel, Esq. came forward to represent the applicant and described the application.

Christina Bui and Leah Rivera 5043 Westfield Avenue came forward to testify and were both duly sworn by the Solicitor.

Upon query, Miss Hannah was informed by the applicant that the hours of operation will be Monday thru Saturday, 10:00 AM until 7:00 PM and they will be closed on Sunday. The applicant further informed Miss Hannah that they will sell jewelry and repair jewelry and watches.

Upon query, Mr. Olivo was informed by the applicant that they have their own parking lot and they will not be sharing it with other businesses.

Upon query, the applicant informed Miss Piccari that they will have a private parking lot and it has 12 spaces.

Upon query, Mrs. Longo was informed by the applicant that they will have a total of 3 employees.

Upon query, the Solicitor was informed by the applicant that they are requesting a site plan waiver. They will only be making renovations to the inside of the store and they will not be making any changes to the exterior of the building.

Upon query, Miss Hannah was informed by the applicant that they will be using an existing sign at the site.

Upon query, Mr. Morales was informed by the applicant that the sign will not be lit.

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 at the subject property located at 5044 Westfield Avenue, Suite A, Block 4702, Lot 12 in the P-1 Zoning District. The applicant proposes to use the property for jewelry sales and repairs. The P-1 Zone permits professional office uses as stated in section 141-85A of our zoning codes. The applicant proposes to use the premises as a jewelry store which is not permitted in the P-1 Professional Zoning District and for this reason, the applicant requires a use variance in order to operate the store at the subject property. The applicant also requires a site plan waiver because our code triggers a site plan review for a change of use. A use variance can be granted by the board when it evaluates and determines that the application as proposed satisfies the statutory criteria for a D-1 use variance. Generally, the applicant must present evidence and testimony that the property is particularly well-suited for the proposed use and therefore, the proposed use will advance the general welfare of the township. The positive criteria may also be satisfied where the application advances the intent and purposes of the municipal land-use law, promotes the general welfare, use of open air, open space and improve the over-all visual appearance of the subject property in the zone and the township. The applicant also has to satisfy the negative criteria, meaning that the use cannot cause a public detriment nor can there be a substantial detriment or impairment to the zoning code or master plan. The applicant's attorney and the applicant's witnesses testified as to the criteria supporting a use variance. The board will have to evaluate as to whether the testimony, any evidence and representations were adequate and sufficient supporting a use variance and site plan waiver. The board did not discuss any conditions. However, we will be looking for a motion to grant the use variance and site plan waiver subject to our standard conditions of approval, which are applicable to every application.

Mrs. Longo motioned to accept the fact finding. Mr. Alves seconded.



Miss Piccari motioned to grant the use variance and site plan waiver and stated that she believes the even though the jewelry store will be nice and fill an empty space on Westfield Avenue. Miss Piccari further stated that she would like it documented that the signage for the store will be nice, attractive and inviting. She further stated that she sees no detriment. Mrs. Longo seconded. Roll call: Lou Morales, Lysa Longo, Darlene Hannah, Diane Piccari, Osvaldo Alves and Patrick Olivo-Aye. None Opposed.

**ZAYO GROUP, LLC**-Seeking approval to install a small wireless facility (with top mounted antenna) on a new 41-foot utility pole in Zoning District C-2. Premised located within the public right of way near or at 4498 Cooper Avenue. Currently the Township's zoning codes do not specifically allow telecommunications utility poles. Also seeking any other variances required by the Township's zoning board.

David Urbach, Director of Underlying Rights & Government Relations, Zayo Group, 1805 29<sup>th</sup> Street, Boulder, CO, Christopher Lyons, Project Manager, Zayo Group, 170 Robins Road Downingtown, PA, Samantha Berman, Senior Site Acquisition Specialist, Jacob's Telecommunications, 2110 Webster Street, Philadelphia, PA and Douglas White, Zoning Board Engineer T&M Associates, 200 Century Parkway, Mt. Laurel, NJ came forward to testify and were all duly sworn by the Solicitor.

Gillian Leytham, Esq. came forward to represent the applicant and stated they are seeking a use variance to install a small wireless, 2-foot antenna on top of a utility pole. The Pennsauken Township Committee has already approved the location for the installation of the pole on Cooper Avenue. However, the ordinance for a telecommunication facility is not permitted. Therefore, they are seeking approval from the Zoning Board.

Mr. Urbach testified that they are seeking to install a small tower at the location on Cooper Avenue. They are looking to install a smaller tower to fill in a gap in coverage due to the increasing use of wireless devices and the higher demand for service. Therefore, they propose to install a 40-foot pole with an antenna on top on Cooper Avenue at Maple Avenue.

Mr. Douglas White went over points in his review letter dated June 10, 2021 and he also suggested the board vote to deem the application complete with the requested waivers.

Mr. Olivo motioned to deem the application complete with waivers. Mr. Longo seconded. Roll call: Lou Morales, Lysa Longo, Darlene Hannah, Diane Piccari, Osvaldo Alves and Patrick Olivo-Aye. None Opposed.

Mr. White continued to go over points in his review letter dated June 10, 2021 and the applicant agreed to all of his comments, suggestions and recommendations.

Mr. Urbach testified as to the positive and negative criteria for the use variance and stated that there will be no negative impact to the surrounding area or to the public good. The proposed pole is standard in height and it will look like the other utility poles installed in the area.

The applicant referenced a Power Point presentation and it was marked into evidence as Exhibit A-1 and the applicants' response letter to Douglas White's dated June 15, 2021 was also marked into evidence as Exhibit A-2.

The meeting was open to the public.

Mr. John Perno, 7207 Rudderow Avenue came forward to testify and was duly sworn by the Solicitor.

Mr. Perno expressed his concerns for the safety of the antenna and the emissions from it and he was satisfied that the applicant explained that the antenna is on a 4G network, it will patch the existing network and it is safe.

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 Zayo Group, LLC and they are seeking a use variance and a site plan waiver to permit the construction of a new 41-foot utility pole



located at 4498 Cooper Avenue. The pole will be constructed on property owned by the Township of Pennsauken and the applicant does have an agreement with the township having been approved by the township committee to construct a new utility pole in the proposed location and because the use is not permitted by our telecommunications ordinance, the applicant was required to come before the Zoning Board to seek a use variance as well as site plan waiver. The applicant's witnesses testified and provided an overview of the details of the proposed stealth tower utility pole and we also had a thorough review from our Zoning Board Engineer, going over the various parts of the utility pole. The applicant did request and was granted a number of completeness waivers by the board and also agreed to supply some of the items requested by our engineer or the applicant has previously supplied such as the list of variances and waivers requested. The applicant provided testimony and evidence relating to the criteria for the use variance relief. The applicant testified that this location is well suited to construct the stealth tower on the utility pole because of the gaps in coverage and essentially this will patch the existing network and this is where the utility pole needs to be. The applicant also addressed some of the purposes of the land use law and it will be advanced by the improvements of the application and the improvements will promote the general welfare and improve telecommunications capability to the township and benefit to the residents and that there will be no public detriment or substantial negative impact to the township zoning plan or to the master plan. The applicant requested a number of waivers that the board can grant with this applicant provided the board finds the waivers reasonable and justified by the testimony and evidence provided by the applicant. The standard conditions of approval apply to this application, such as posting the required bonds as discussed and agreed to by the applicant, securing any outside agency approvals, although there may not be any and keeping an escrow account replenished. The applicant will adhere to their representations this evening with respect to the submission of the and agreement to inform the township of any futures changes with respect to the utility pole.

Mrs. Longo motioned to accept the fact finding. Mr. Alves seconded.

Mrs. Longo motioned to grant the use variance and site plan waivers as requested by the applicant. Mrs. Longo further stated that she doesn't see a detriment, she believes the additional telecommunications service is needed and will be a benefit to the area. Miss Piccari seconded. Roll call: Lou Morales, Lysa Longo, Darlene Hannah, Diane Piccari, Osvaldo Alves and Patrick Olivo-Aye. None Opposed.

**WILLIAM DEPUTY (Continued from June 2<sup>nd</sup>)** - Seeking a variance to enclose a 30' x 60' existing structure to use as a detached garage which will exceed the maximum accessory structure size of 400 square feet as per Township ordinance number 141-76(B) and any other variances and waivers that may be required by the Pennsauken Zoning Board. The applicant is also seeking approval to store his tree/landscaping equipment inside the detached garage. Premises located at 8301 Corbett Road, Block 2409, Lot 46 in Zoning District R-1.

Mr. Padalino announced this application will be continued to the hearing on July 7th at 7:00. The applicant does not have to re-notice or republish the hearing.

**CORRESPONDENCE:**

None

**MINUTES:**

It was moved, seconded and unanimously agreed to approve the meeting minutes from the meeting on June 2, 2021.

**RESOLUTIONS:**

None

**BILLS:**

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

Florio, Perrucci, Steinhardt & Cappelli-Legal Services for Eugene & Francis Davis-***\$490.00***

Florio, Perrucci, Steinhardt & Cappelli-Legal Services for Zayo Group, LLC-***\$175.00***

T&M Associates-Engineering Services for 7245 Westfield Avenue-Solar Landscape-***\$390.00***

T&M Associates-Engineering Services for ACJC Landscape Yard-***\$975.00***

**COORDINATOR'S REPORT:**

None

There being no further business; it was moved, seconded and unanimously agreed to adjourn the meeting at 9:30 P.M.

Respectfully submitted:



Nancy L. Ellis, Board Secretary