

**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, Pennsauken, New Jersey.

Chairwoman Butler called the meeting to order at 7:00 P.M. and led the flag salute. Roll call disclosed the following members present: Carl Bierbach, Lysa Longo, Paul Hoyle, Shirley Butler, Jaye Silver and Darlene Hannah. Acting Solicitor Richard Wells, Esq., Zoning Board Engineer, Ray Jordan, Planning & Zoning Coordinator, John Adams and Zoning Board Secretary Nancy Ellis were also present.

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.

Paul Hoyle assumed the seat of absent member Duke Martz.

**HEARINGS:**

**MEGA PALACE INVESTMENT, LP** - Seeking a minor subdivision; and use variance for preliminary and final site plan approval for retail stores and catering hall. Premises located at 6306 Browning Road, Block 6001, Lot 73 in Zoning District R-1.

Mr. Michael Albano, Esq. came forward to represent the applicant and gave an overview of the application which includes a minor subdivision, a use variance, preliminary and final site plan approvals and bulk variances.

Mr. McSean Ung, President of Mega Palace Investment, LP, The applicant's engineer, Mr. John Pettit, 497 Center Street, Sewell, NJ, Mr. George Tutwiler, President of Stonegate Senior Housing and Mr. Raymond Jordan, Zoning Board Engineer came forward to testify and all were duly sworn by the Solicitor.

Mr. John Pettit referred to Exhibit A-1, an aerial plan of the site and Exhibit A-2, the site plan. Mr. Pettit described the subdivision of the lots, the parking plan and the necessary bulk variances needed to expand the existing shopping center. Mr. Pettit also gave testimony as to the positive and negative criteria of the application.

Upon query, Mr. Bierbach was informed by Mr. Pettit that they purchased lots 7303 and 7304 from St. Stephen's School. The school will remain at the site and they may possibly use the building as a catering hall in the future. If that is the case, they will come back to the board at a later date to seek a use variance. Mr. Bierbach was further informed about the truck deliveries to the site, the lighting at the site and that neither will adversely affect the residential area.

Upon query, Mr. Bierbach was informed by Mr. Ung that he will lease the spaces at the proposed shopping center to tenants and he is confident that he will be able to lease all the spaces out. The existing shopping center is filled with tenants such as the supermarket, a hair salon and a cell phone store. He will lease the proposed spaces to different types of businesses to supply goods and services to the surrounding community. Mr. Ung further informed Mr. Bierbach that he didn't look for other locations because he is the owner of and built Saigon Plaza. He further stated that the proposed retail center will support the existing shopping center as well. Mr. Ung further stated that the purchase of the property also benefits St. Stephen's Church as well.

Upon query, Mr. Hoyle was informed by the applicant that the ingress and egress to the site is and will be on Route 38.

Upon query, Mr. Silver was informed by the applicant that they will work with the zoning board engineer, Ray Jordan for the best lighting that won't spill over into the surrounding residential neighborhood.

Mr. Ray Jordan read his review letter dated October 17, 2016 onto record.

The applicant agreed to comply with Mr. Jordan's comments and suggestions in his letter.

Upon query, Mr. Bierbach was informed by the applicant the appearance of the proposed building will be consistent with the existing one.

The meeting was open to the public.

Rosemary Davis, 22 Clifford Court, Mt. Laurel, NJ came forward to testify and was duly sworn by the Solicitor.

Ms. Davis testified that she is the trustee at St. Stephen's Parish. She stated that St. Stephen's School was closed due to lack of attendance and the board has gone over the sale of the property for some time. Ms. Davis further stated that she believed the Saigon Plaza is a nice, clean shopping center for the community and an addition to the property is a good thing and will enhance the neighborhood rather than have an unused vacant area where the closed school is currently located.

Mr. George Tutwiler, 8744 Bryn Mawr Avenue, Pennsauken came forward to testify and was duly sworn by the Solicitor.

Mr. Tutwiler testified that he is the president of Stonegate Senior Housing Corporation. Mr. Tutwiler stated that the shopping center will be good for the surrounding community where they will be adding a grassy area, lighting and also a pathway so that the seniors can safely walk to the shopping center. Mr. Tutwiler further stated that he and Mr. Ung asked the township assessor to give the new building a properly address on Route 38 to keep the traffic from coming into the shopping center from Browning Road and cutting through the residential area.

Mr. David Meidt, 6317 Browning Road came forward to testify and was duly sworn by the Solicitor.

Mr. Meidt testified that he lives directly across from St. Stephen's Church. He expressed his concerns about the site plan and traffic patterns to and from the site.

Mr. Bierbach commented that he would like the shopping center to look more "community" oriented since it is in the middle of a residential zone.

Mr. Silver stated that the applicant should enhance the esthetics and not create a hardship to the surrounding community.

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 minor subdivision and preliminary and final site plan approval with both bulk and use variance relief is being requested. We heard from Mr. John Pettit, the applicant's engineer and the applicant Mr. Sean Ung, owner of Mega Palace at Saigon Plaza. Mr. Pettit generally testified as to the site plan proposals and the minor subdivision proposals. Mr. Pettit also testified to the use and bulk variances being requested. The applicant submitted Exhibits A-1 and A-2, which respectfully consisted of the aerial plan of the site and a colored layout of proposed lot 73.04. In reference to lot 73.04, the applicant did highlight that they can't consolidate with the existing shopping center due to differences in the ownership and the existing financing agreement, which would prevent consolidating the lots at this time. That does speak to the requested bulk variances in respect to the lot frontage. Mr. Pettit also addressed the engineer's review letter and generally addressed all the comments by Mr. Jordan, noting that they would comply and it is in their testimony as to how they will comply with each of the requests. Mr. Jordan did reply to Mr. Pettit's testimony and noted that if the comments and concerns had not already been addressed, he is satisfied that they would be addressed and that the applicant will comply with any outstanding concerns or design issues with the plan. We also heard from Mr. Ung who noted that he will lease the property to tenants. He currently owns the supermarket and he summarized the existing retail uses at the site and noted that because he owns the existing plaza, it serves as a magnet for other businesses and he is very confident that other

businesses will be drawn to the site if it is approved. We heard from members of the public who supported the application. However, there were some concerns related to the residential neighborhood in the surrounding community. This is a multi part application where we are looking at subdivision approval, preliminary and final site plan approval with the variances that are also being requested. Normally, the applications for subdivision and site plan approval are largely technical in nature, they are concerned whether or not the engineer is satisfied that the proposed plan conforms with the township ordinances and if not, how they will be either brought into conformance or whether bulk variance relief is necessary. Here we heard that several bulk variances were necessary. The applicant provided testimony to support their reasons for requesting the bulk variances, specifically the ones that we need to highlight are the fact that we are looking at a potentially “land lock” lot. The applicant’s attorney mentioned that based upon the circumstances we have here, that we can effectively treat that as another type of bulk variance so that some parts should exist why they should be permitted lot 73.04 with effectively no lot frontage. We heard the testimony of how that connects into the existing shopping center, the points of access between the other lots and how they work out. This is the applicant’s testimony in sum in respects to the bulk variance and request for no lot frontage on 73.04. We also have lot a proposal for lot 73.03, which does have a lot frontage but has a lesser lot frontage than required by the ordinance. So, these are just the two significant bulk variances being requested in addition to those being requested by the applicant during the testimony. Primarily, what we have here is an application for a use variance. A use variance is requesting that a use be permitted that is not permitted by ordinance in that zone. They are asking for an exception to that rule of permitted uses in that zone, which requires the applicant to prove both the positive and negative criteria. We heard from the applicant’s engineer as to those criteria. The positive criteria generally being that they have to demonstrate some special reason why the use should be permitted here that it advances the intent and purpose of the municipal land use law. The applicant’s engineer highlighted several reasons. Generally, he noted that it promotes the general welfare and the general public good of the neighborhood. He specifically highlighted subsections A, C, G, H & I of the municipal land use law as to why they feel their reasons supports and promotes the general welfare. If the positive criteria are shown, they must also demonstrate the negative criteria in that granting the requested relief will not present a substantial detriment to the surrounding neighborhood and will not substantially impair the intent and purpose of the township zoning plan.

Mrs. Longo motioned to accept fact finding. Miss Hannah seconded.

John Adams, Pennsauken Zoning Officer, 3825 Gladwyn Avenue came forward to testify and was duly sworn by the Solicitor.

Mr. Adams clarified the application with the public, the applicant, and with the board.

Mr. Silver motioned to grant the use variance. He stated that he sees no detriment to the surrounding area. The applicant has worked with both the board and the public to make sure everyone is satisfied to beautify and keep Pennsauken a viable place to do business. Miss Piccari seconded. Roll call: Madams Longo, Butler, Hannah, and Piccari, and Messrs. Bierbach, Hoyle and Silver-Aye. None opposed.

Mr. Bierbach motioned to grant the minor subdivision and preliminary site plan. He asked the applicant that when they come back for final site plan approval they address the concerns of the public and the board and to keep in mind that the shopping center is right in the middle of a residential zone. Mr. Bierbach further stated that he believes the shopping center is great and it is an asset to the neighborhood. Mr. Silver seconded. Roll call: Madams Longo, Butler, Hannah, and Piccari, and Messrs. Bierbach, Hoyle and Silver-Aye. None opposed.

**MINUTES:**

None

**CORROSPONDENCE:**

None

**RESOLUTIONS:**

**Resolution #Z-2016-25** - granting **KEITH A JAMES**- 2 feet of relief from side yard setback requirement of 5 feet for a 10' x 16' shed in rear yard. Premises located at 1540 Hillcrest Avenue, Block 503, Lot 16 in Zoning District: R-1.

**BILLS:**

*10/19/2016*-Florio, Perrucci, Steinhardt & Fader, LLC-Litigation for Jeffery & Lisa Love-***\$1,031.00.***

*10/19/2016*-Florio, Perrucci, Steinhardt & Fader, LLC preparation of resolution for **Richard Reaves** - ***\$195.00.***

*10/19/2016*-Florio, Perrucci, Steinhardt & Fader, LLC preparation of resolution for **Michele Herring** - ***\$195.00.***

*10/19/2016*-Florio, Perrucci, Steinhardt & Fader, LLC preparation of resolution for **Diau Doan** - ***\$195.00.***

*10/19/2016*-Florio, Perrucci, Steinhardt & Fader, LLC preparation of resolution for **Venessa Poitier** - ***\$195.00.***

*10/19/2016*-Florio, Perrucci, Steinhardt & Fader, LLC preparation of resolution for **Tonya Moody** - ***\$195.00.***

*10/19/2016*-Florio, Perrucci, Steinhardt & Fader, LLC-Zoning Board Solicitor Monthly Retainer-***\$1,134.67.***

**COORDINATOR'S REPORT:**

Not at this time.

There being no further business; it was moved, seconded and unanimously agreed to adjourn the meeting at 8:10 P.M.

Respectfully submitted:

A handwritten signature in black ink, appearing to read "Nancy L. Ellis". The signature is fluid and cursive, with the first name "Nancy" being the most prominent.

Nancy L. Ellis, Board Secretary