

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. The applicants, professionals and board members began to log on at 6:45 P.M. Vice Chairwoman Hannah called the meeting to order at 7:30 P.M. and led the flag salute. Roll call disclosed the following members present: Paul Hoyle, Lou Morales, Lysa Longo, Darlene Hannah, Patrick Olivo, Colette Jones and Duke Martz. Diane Piccari was present. However, due to technical difficulties, she was not able to stay connected to the video call. Shirley Butler was able to work out connecting issues and later joined the meeting. 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 Vice Chair 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.

HEARINGS:

AC PELLEGRINI, LLC (Continued from February 19, 2020) - Seeking use variance approval to permit a full service used car dealership with auto repairs and accessories. Premises located 5910 S. Crescent Blvd. Known as Plate 58, Block 5845, Lot 1 on the Tax Map of the Township of Pennsauken. Zoning District: C-2 (Redevelopment)

The applicant submitted the following plans electronically to the board and they were pre-marked into evidence by the Solicitor: Exhibit A1-Current conditions Top View of Subject Property (introduced at the 2/19 hearing), Exhibit A2-Existing Floor Plan (3/6/2020), Exhibit A3-Existing Elevations (3/6/2020), Exhibit A4-Proposed Floor Plan (3/6/2020), Exhibit A5-Proposed Elevations (3/6/2020), Exhibit A6-Site Plan Concept Rendering and Exhibit A7-Colorized Front Elevation Rendering.

Mr. James Burns, Esq. represented the applicant and stated that the application for use variance approval was originally heard by the board on February 19th. At that time, Exhibits were presented to the board and testimony was given by their professional planner, James Miller. However, the board wanted to see more plans of the building layout on the property before making a decision. Therefore, they have provided architectural drawings prepared by Mr. Rick Fumo of Stout & Caldwell to the board. The drawings depict a clear rendering of the interior, floor plan of the building, the exterior of the building and a colorized, front elevation of the front of the building. The drawings also include the entire layout of the site as to where the parking and the garage bays will be on the outside of the building and where the offices and showroom will be located on the inside of the building. Mr. Burns further stated that the site takes up an entire block and it is surrounded by a concrete wall and the buildings on the property will remain the same and the circulation at the property will remain the same as well. Again, they are asking for a use variance and a site plan waiver conditional upon them providing site plan escrow. They are not changing anything at the site.

The applicant, Louis Pellegrini was duly sworn in by the Solicitor and testified that he intends to repair the concrete at the property, paint the buildings, cut and install doors for the service bays and add landscaping to the site. Mr. Pellegrini further testified that the seller of the building is not giving him any additional time to purchase the property.

Mr. Rick Fumo, Architect for the applicant, 101 Route 130, Cinnaminson, NJ was duly sworn by the Solicitor and described his credentials to the board.

The board accepted Mr. Fumo as an expert witness.

Mr. Fumo testified as to the improvements at the site as depicted in his drawings that were previously submitted to the board. The first three Exhibits, (A1, A2 and A3) are renderings of the existing conditions at the site. They are going to improve the interior of the site by adding an auto showroom to display cars, a sales office and new restroom facilities, which will be ADA compliant. Mr. Fumo further testified that they will paint and

restore the exterior of the whole masonry building and paint and add stucco panels to the front exterior as well. They will be significantly beautifying the entire building.

Mr. James Miller, Professional Planner, 222 Nicholson Drive, Moorestown, NJ was duly sworn by the Solicitor and previously accepted by the board as an expert witness.

Mr. Miller described the existing conditions at the site and once again stated that the lot does not require any changes. They will be fixing the pavement and it will be done under a building permit. All car repairs will be done inside the building and they will be providing landscaping at the site.

Mr. Douglas White, Zoning Board Engineer, was duly sworn by the Solicitor.

Upon query, Mr. White was informed by Mr. Pellegrini that for now, he doesn't have plans to use an existing building at the rear of the property as depicted in Exhibit A7. The building does have existing service bays that Suburban Bakery used to repair their trucks, it was used by a boat repair company and at the same time the building was used by Joe's Garage for many years. The applicant further stated that if he decides to use the building in the rear, which is closer to the residential area on Roosevelt Avenue, it will not be for any repairs that would require electric tools that would generate noise. Mr. Pellegrini further stated that he doesn't intend to do any auto repairs in the parking lot. He will use one of the 5 garage bays to do most of the work. However, there may be an occasion a flat tire may need to be changed in the lot.

Upon query, the Solicitor was informed by Mr. Pellegrini that he could agree to the conditions to approval discussed at the prior hearing. However, at the prior hearing he agreed to look into installing air conditioning in the garage and keep the service bay doors closed to mitigate noise. Since then, he looked into it and he was informed that it would cost too much with having to open and close the service bay doors.

Upon query, Mr. White was informed by Mr. Pelligrini that there will be no painting done onsite. He further stated that his insurance company forbids it.

Upon query, Mr. Morales was informed by the applicant that they are very sensitive to environmental issues and conscious of taking care of their properties and keeping them clean from any type of fluid leaks from their automobiles.

Upon query, Mr. Hoyle was informed by the applicant that they will landscape with a low hedge in front of the wall that surrounds the property, paint everything at the property and replace an existing chain link fence with wrought iron fencing.

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 to permit a full service used car dealership with auto repair at 5910 S. Crescent Boulevard, Block 5845, Lot 1 located in the C-2 and R-2 zones. Our development regulations do not permit the full service used car dealership with auto repair in either the C-2 or R-2 zones. Therefore, a use variance is required to permit the use of the entire subject property as a used car dealership with auto repair service. The applicant has submitted an application and appeared before the board for a D1 use variance, for that variance, the applicant has to prove special reasons known as the positive criteria as well as the negative criteria. For the positive criteria, the applicant has to show the property is particularly suited for the proposed non-conforming use and either the refusal of the proposal would impose an undue hardship or that the proposed project carries out a purpose of zoning as defined by the land use law such as the promotion of the general welfare, improving the visual appearance of the property and promoting the efficient utilization of land and several others as set forth in the law. The applicant's professional planner and other witnesses testified that the property is very well suited for the applicant's proposed use. They mentioned the existing 23,000 square foot building as well as the wall that surrounds the property as rendering the site particularly appropriate for the proposed used automobile service use. Also, the historical use of the property, the applicant's witnesses testified that the proposed use is similar to that use. It was a previously used for auto repair and boat repair. Therefore, given the existing improvements on the site, the applicant's witnesses did testify that it is well-suited and they are going to rehab the site to look nicer so that the improving visual esthetics of the subject property and also promoting the general welfare as well as making use of open space in the township.

Again, these are some of the purposes that the applicant's professional planner testified would be advanced by the application. For the negative criteria, the applicant's witnesses testified that there will be no substantial impact or detriment to the public good or substantial impairment to the township's zoning ordinance or the township's master plan. Again, given the prior uses of the property, which were similar and also the wall that borders the property, the applicant's witnesses testified that it will limit the impact on the adjacent properties, which the board has to consider for whether or not there will be an impact on the public good. The applicant also accepted some conditions of approval that would appear to further mitigate against any detriment to the public good, including, all noise generated during automobile repair work will be performed in doors to limit the amount of noise generated from the property. Doors and windows will be kept closed at the greatest extent practical to limit the noise generated from the site. The applicant also agreed not to perform any noise generated at all from the one-story masonry building that fronts Roosevelt Avenue and Frosthoffer Avenue. In addition, the applicant made various representations, all of which he has to adhere to should the application be approved, such as the hours of operation be from 9:00 AM until 8:00 PM, no performing any automobile repair work after 5:00 PM and closed on Sundays. The applicant also agreed they would submit a conditional site plan waiver application to be heard at by the board at a later date.

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

Mr. Olivo motioned to grant the use variance. He stated that he believes the proposed improvements will be esthetically pleasing. He further stated he likes the idea that the cars will be inside the building as a show room and also that the applicant intends to work on the cars inside the garages at the property. Mr. Morales seconded. Roll call: Paul Hoyle, Lou Morales, Lysa Longo, Darlene Hannah, Patrick Olivo, Colette Jones and Duke Martz-Aye. None Opposed.

Shirley Butler was able to join the Zoom meeting.

**AIU DAMMAMAPATI** - Seeking a use variance to permit a duplex in an R-3 zone where only single family detached dwellings are permitted and any other variances and waivers that may be required by the Pennsauken Zoning Board. Premises located at 7418 Zimmerman Avenue, Block 1217, Lot 3 in Zoning District R-3.

Aiiu Dammamapati, 7418 Zimmerman Avenue was duly sworn by the Solicitor.

Ms. Dammamapati testified that she purchased the property in 2014. There were three units in the building that she rented out to three different families. The building caught fire and was destroyed and demolished. The applicant further testified that she would like to construct a new building on the lot with two units for two families.

Upon query, Mrs. Butler was informed by the applicant that each unit will have a main entrance in the front and each with an entrance in the rear.

Upon query, the applicant informed Mr. Martz that there was a triplex at the property, there was a fire and the land is currently vacant and she would like to construct a duplex. The applicant further informed Mr. Martz that she doesn't intend to live at the property, there will be enough off street parking for each unit and the lot size is 75 feet wide x 158 feet deep. Ms. Dammamapati also testified that there are other duplexes in the area and she will be creating 2 separated yards in the rear for each unit.

Upon query, the applicant informed Mr. Hoyle that she didn't have problems in the past with her rental units. She believes her tenants were happy. The applicant further informed Mr. Hoyle that the proposed building will look similar to the other properties in the neighborhood.

Upon query, Mrs. Longo was informed by the applicant that there will be a driveway and parking for each unit in the front of the building.

Upon query, Mr. Morales was informed by the applicant that each unit will have 2 bedrooms and 2 bathrooms. The applicant further testified that the rear yard will be fenced in and the driveway in the front will be on one side and a parking spot will be designated for each unit.

Upon query, Mrs. Butler was informed by the applicant that there will be enough off street parking for 3 cars.

Upon query, the Solicitor was informed by the applicant that the property is owned by Appalachian Holdings, LLC and it is her company. The applicant testified she believes that the property is particularly suited for the proposed use, since it has been used as a rental property in the past. She stated she believes the construction will benefit the township in that she will continue to pay taxes on the property, two more families will live in the township and a vacant lot will be beautified with new construction and landscaping. The applicant further testified that she sees no detriment to the neighborhood or the surrounding area.

Upon query, the Solicitor was informed by Mr. White that the applicant may need to submit some type of plan to the board.

Upon query, Mr. Martz was informed by the Mr. Padalino that the use isn't grandfathered in. The applicant had 1 year to rebuild on the same footprint and the fire was in 2017. Mr. Padalino further stated that according to the township code, a site plan is not required to construct a single family home or duplex.

The applicant testified that she submitted a survey with a layout of where everything will be on the property.

Upon query, Mr. Hoyle was informed by the applicant that the driveway will be at the front, side of the property and it will be large enough to fit 3 cars. The applicant further informed Mr. Hoyle that she will hire a landscaping company to maintain the property. However, she will be the property manager.

The Solicitor stated that a single-family detached dwelling does not require a site plan be submitted to the board.

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 to permit a 2-family semi detached dwelling at 7418 Zimmerman Avenue, Block 1217, Lot 3 in the R-3 Zoning District which only permits single family dwellings. Therefore, per section 141-78 of our development regulations, the applicant requires a use variance to permit the multi-family home. For the board to grant the use variance, the property has to be shown to be particularly suitable for the proposed use and that the refusal of the approval would impose a hardship on the applicant or that the project carries out a purpose of zoning as defined in the municipal land use law, such as the promotion of the general welfare, improving the visual appearance of the property, and making an efficient use of open space and land. The applicant testified that the property is suitable for the multi-family dwelling, since the former use of the property was for a triplex and also it will promote various purposes of the land use law, because it is currently vacant and the applicant is proposing to utilize the vacant land and to beautify it with new construction, which will generally promote the general welfare for the township and advance the public good as well as improve the overall appearance and esthetic of the parcel and the community. For the negative criteria, the applicant has to prove the variance can be granted without substantial detriment to the public good and it will not substantially impair the intent and purpose of the master plan or development regulations. The applicant testified that she could not foresee any negative criteria or detriment to the neighbors, given the prior use of the property and the fact that it's currently vacant and there will be no detriment to the zoning plan. The board will need to determine as to whether the applicant will need to come back with a site plan or submit an application for a site plan waiver. Based on the applicant's testimony, and a reading of the code, the applicant may need to submit some form of site plan application.

Miss Hannah motioned to accept the fact finding. Mr. Hoyle seconded.

Mr. Hoyle motioned to grant the use variance. He stated that he believes the proposed use is not out of character with the township or the neighborhood. It's a residential neighborhood and the proposal is for two units, not an apartment building. Mr. Hoyle further stated that he would like to see a drawing and the design of the units prior to construction. Mr. Morales seconded. Roll call: Paul Hoyle, Lou Morales, Lysa Longo, Shirley Butler, Darlene Hannah, Colette Jones and Duke Martz-Aye. None Opposed.

#### MINUTES:

It was moved, seconded and unanimously agreed to approve the minutes from the February 19<sup>th</sup> and March 4<sup>th</sup> Zoning Board meetings.

#### CORROSPONDENCE:

None

**RESOLUTIONS:**

**Resolution #Z-2020-06** granting **AC PELLEGRINI, LLC** use variance approval to permit a full service used car dealership with auto repairs and accessories. Premises located at 5910 S. Crescent Blvd., Block 5845, Lot 1 in Zoning Districts R-2 and C-2 (Redevelopment).

**Resolution #Z-2020-07** granting **TRIPLET REAL ESTATE, LLC** Approval of settlement of litigation Triplet Real Estate, LLC V. Pennsauken ZBA. Premises located at 4615 North Crescent Blvd. Block 4601, Lot 23 and 24 in Zoning District C-2 (Redevelopment).

**BILLS:**

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

Remington & Vernick Engineers, Inc.-Engineering Services for PSE&G Switching Station-***\$327.07***

T&M Associates-Engineering Services for Zippy's Car Wash-***\$4,070.00***

T&M Associates-Engineering Services for Stonegate II-***\$190.00***

T&M Associates-Engineering Services for Mega Palace-***\$6,475.00***

T&M Associates-Engineering Services for A.C. Pellegrini-***\$1,140.00***

T&M Associates-Engineering Services for A.C. Pellegrini-***\$95.00***

Florio, Perrucci, Steinhardt & Cappelli- Legal Services for Triplet Real Estate-***\$3,237.46***.

Florio, Perrucci, Steinhardt & Cappelli- Legal Services for Triplet Real Estate-***\$379.50***.

Florio, Perrucci, Steinhardt & Cappelli- Resolution Prep for Sherman Diggs-***\$119.00***.

Florio, Perrucci, Steinhardt & Cappelli- Legal Services for DaVita Kidney Care-***\$340.00***

Florio, Perrucci, Steinhardt & Cappelli- Legal Services for AC Pellegrini, LLC-***\$374.00***.

Florio, Perrucci, Steinhardt & Cappelli- Legal Services for Mega Palace-***\$476.00***.

Florio, Perrucci, Steinhardt & Cappelli- February 2020 Monthly Retainer-***\$1,134.67***.

Florio, Perrucci, Steinhardt & Cappelli- March 2020 Monthly Retainer-***\$1,134.67***.

**COORDINATOR'S REPORT:**

None

There being no further business; it was moved, seconded and unanimously agreed to adjourn the meeting at 9:10 P.M.

Respectfully submitted:



Nancy L. Ellis, Board Secretary