

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, Lou Morales, Lysa Longo, Shirley Butler, Darlene Hannah, Diane Piccari, Patrick Olivo, Colette Jones 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:

AC PELLEGRINI, LLC-Requesting either site plan waiver approval or site plan approval associated with the approved full service used car dealership with automobile repair and sale of accessories at the property located at 5910 South Crescent Boulevard, Pennsauken, New Jersey, also known as Block 5845, Lot 1. The Applicant is proposing no changes to the existing footprint of the existing buildings and structures located on the subject property. The Applicant is proposing aesthetic improvements including the repainting of the buildings, repairs to existing masonry walls, all of which can be accomplished through Township issued Permits. Supplemental landscaping, site lighting and ADA parking spaces are proposed subject to review and approval by the Zoning Board Professionals. All other existing conditions shall remain unchanged. Pre-existing, non-conforming minimum side yard setback, minimum rear yard setback, maximum building coverage and lot coverage shall remain unchanged as existing, non-conforming conditions and as a result no variances are required for any and/or all pre-existing non-conformities. The Applicant is requesting approval of any and all variances, (including any variances that may be required for the pre-existing nonconforming minimum side yard and rear yard setbacks and maximum building and lot coverage), waivers and permits requested or required at the public hearing. 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)

James Burns, Esq. came forward to represent the applicant. He stated that this application is for site plan approval and they will be making a substantial investment and improvements to the existing rundown property. Mr. Burns stated that they are seeking two variances, one for the amount and size of the parking stalls and the other is for the percentage of impervious lot coverage.

The applicant, Lou Pellegrini, owner of A.C. Pellegrini, LLC, Mr. Rick Fumo, Architect for the applicant, Robert Stout, Engineer for the applicant and Mr. Douglas White, Zoning Board Engineer were duly sworn by the Solicitor.

Robert Stout, the applicant's Engineer presented a colorized rendering of the landscaping and lighting plan for the site to the board and it was marked into evidence as A-1. Mr. Stout described the existing conditions of the building, the proposed parking areas on the lot for employees, customers, service area and for inventory. Mr. Stout testified that the applicant will be cleaning up the lot, adding landscaping, and removing depressed curbing along Frosthofer Avenue and installing ADA compliant access to the site. Mr. Stout presented a sidewalk plan to the board and it was marked into evidence as A-2. Mr. Stout testified that they will be installing a pedestrian friendly path along the residential area of the site and installing wrought iron fencing. Mr. Stout also testified as to the proposed additional impervious lot coverage and the water drainage at the site.

Upon query, Mr. Martz was informed by Mr. Stout as to the rear parking lot and storage for the vehicle inventory.

Upon query, Miss Jones was informed by Mr. Stout that there will be one handicap parking space for customers.

Mr. White suggested the applicant add signage indicating where a proposed public walkway will be.

Mr. Stout further testified as to the parking, the delivery and unloading of vehicles at the site, the variances and waivers needed and he stated that the benefits outweigh the detriment at the site.

Mr. Rick Fumo, the applicant's architect presented a rendering of the front elevation of the site and it was marked into evidence as A-3. Mr. Fumo testified as to the repairs they will be making to the existing masonry wall that surrounds the property. Mr. Fumo also testified as to the improvements they will be making to the existing building at the site. The building will include a car showroom, car service area with overhead doors, an office and new ADA compliant restrooms will be installed as well. Mr. Fumo presented a rendering of the rear elevation and it was marked into evidence as A-4. Mr. Fumo testified as to the signage they will be adding and they will also be using an existing pylon sign at the site. Mr. Fumo testified that the building and site will be beautified and it will be esthetically pleasing.

Mr. Douglas White, Zoning Board Engineer presented and discussed his review letter dated May 18, 2020. The applicant agreed as a condition of approval to comply with all comments and recommendations within the review letter.

Upon query, Mr. Pellegrini informed Mr. White that he could paint the rear of the building grey. However, red and white are his company colors and he would prefer to keep the building uniform and paint the whole building white with red accents.

It was moved, seconded and unanimously agreed that the application is complete.

Upon query, the Solicitor was informed as to the total amount of parking at the site for customers, employees and for inventory.

Upon query, Mr. Martz was informed by the applicant that they will be planting an ornamental tree of some type at each end of the building and low green shrubs will be planted around the site as well.

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 AC Pellegrini for site plan approval with bulk variances to permit a full service used car dealership with auto repairs and accessories. The property is located at 5845, lot 1 and it is located partially in the C-2 Commercial Zone and the R-2 Residential Zone. The applicant previously did receive use variance approval to permit the proposed use at the subject property as memorialized by the board resolution number Z-2020-06. For the proposed site plan approval, the applicant sought this evening and the applicant also required variances. The first is a variance to permit 8 customer parking spaces with 1 ADA compliant parking space and 15 employee parking spaces, totaling 23 employee and customer parking spaces, whereas 75 parking spaces are required by our township code. The applicant also sought a variance to permit an increase in the existing impervious lot coverage from what is already non-conforming 87.8% coverage to 88.9% coverage, whereas 85% is the maximum in the C-2 zone and 65% is the max in the R-2 zone. As the board knows either a C1 hardship bulk variance or a C2 substantial benefit variance can be granted. The board may grant a hardship variance if the board finds that due to the unique shape or the conditions of the subject property deviation from our code requirements are warranted by the application. A C2 substantial benefit variance can be granted where the purposes of the municipal land use law would be advanced by a deviation from our code requirements and those benefits must generally outweigh any detriments to the public good. There can be no substantial detriment or impairment to the township code and zoning plan. The applicant testified that the variance is justified first, by the overall use of the application. The applicant is taking an abandoned, underutilized, vacant lot and beautifying the subject property and promoting the visual appearance and improving the visual esthetics of the site and also promoting the general welfare of the township. The applicant testified that there is no substantial detriment to the public good or impairment to the zone plan given that the variances are a small increase with the non-conforming lot coverage to slightly more non-conforming lot coverage and that any increase is offset by the applicant's improvements to the drainage and to the storm water management on the property. Also, the applicant testified that for the proposed used car dealership, they would never require the number of parking spaces for customers and employees that our ordinance requires. Therefore, we are looking for a motion to grant the site plan approval with the bulk variances for parking and for

lot coverage as well as a variance to decrease the size of the parking spaces to 9' x 18' and the ADA parking space to 11' x 18'.

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

Mr. Martz motioned to grant the application. He stated that based on the applicant's testimony, it appears that the applicant has agreed to all the board's requests to beautify the building and make the necessary upgrades. Mr. Martz further stated that the applicant is turning an eyesore into a something that will be appealing to the community. Miss Hannah seconded. Roll call: Paul Hoyle, Lou Morales, Lysa Longo, Shirley Butler, Darlene Hannah, Diane Piccari and Duke Martz-Aye. None Opposed.

**MEGA PALACE INVESTMENTS, LP** - Seeking a use variance and /or an expansion of a previously granted use variance and/or a variance from provisions of Section 48-16 to extend the previously granted use variance an additional one (1) year from the date of publication of the current approval, a variance from the provisions of ordinance section 141-76.C(5)(b) to permit a lot coverage of 72% where a of 60% maximum is permitted, a submission waiver from Section 141-68.A requiring submission of Site Analysis, a submission waiver from Section 141-68.B requiring submission of an Environmental Impact Statement, a design waiver from Section 141-73 to allow for parking space which are 9' x 18' in size, conditional use approval to allow for a reduction in the parking space width to 9 feet, amended preliminary site plan approval and final site plan approval for property located at 5211 Route 38, Pennsauken, NJ, designated as Block 6001, Lot 73.04 on the Tax Map of the Township of Pennsauken, to permit the construction of an approximately 28,800 square foot retail and restaurant building, with accompanying parking, landscaping, lighting and storm water management. The applicant will seek all any and all other waivers, variances or other approvals required by the Pennsauken Zoning Board of Adjustment, by the Board's professionals, and /or otherwise required to permit the project in question. Zoning District: R-1.

Mr. Mike Amino, Esq. came forward to represent the applicant. Mr. Amino stated that Mega Palace was before the board in October 2016 and they have since subdivided the lot and were granted a use variance to allow a retail plaza, much of the same as they are proposing before the board at this time with some changes. There were some issues that held up the construction. Therefore, they came back before the board in November 2019 to extend their previous approvals and the extension was granted there way by Resolution number Z-2019-23. At this time, they are looking for an expansion of the prior use variance for the increased size of the building and an amended preliminary site plan approval as well as the final site plan approval. Mr. Amino further stated they are asking for waivers and variances as well.

McSean Ung, Owner, Mega Palace Investment, LP, George Tutwiler, Project Manager, Mega Palace Investment, LP, Bryan Proska, Traffic Engineer, Traffic Planning & Design, Inc., John Halbruner, Professional Architect, The Hyland Group (A15 Studios), J. Timothy Kernan, Professional Planner Maser Consulting Walter Kaupp, Professional Engineer, Brian Spray, Professional Engineer, Mike Urban, Landscape Architect, all of Civil & Environmental Consultants, Inc., were all duly sworn by the Solicitor.

Mr. George Tutwiler, Project Manager for the applicant read a letter onto record regarding the history of the proposed project.

Mr. Brian Spray, Professional Engineer for the applicant described his credentials and was accepted by the board as an expert witness.

Mr. Spray presented the first page of the Site Plan (Zoning Map), and it was marked into evidence as Exhibit A-1. Mr. Spray described the site and the storm water management at the site. Mr. Spray presented an Ariel Overlay (Context Map) of the proposed site and it was marked into evidence as A-2. Mr. Spray stated that the proposed building will be 28,800 square feet with a mezzanine and the site will work in concert with the existing Saigon Plaza. He further stated that there will be 3 access points and the traffic flow will be separated for commercial traffic and for pedestrian traffic. Mr. Spray described the traffic access and circulation at the site. Mr. Spray further stated that all utilities, fire hydrants and the trash enclosures will be at the rear of the building.

Upon query, Mr. Martz was informed by the applicant that the trash receptacles will be approximately 100 feet from the residential area and the trash will be picked up 3 days a week. There will be two enclosures, 1

container for rubbish and the other for recyclables. They will also be adding trees as a buffer from the adjoining residential area.

Bryan Proska, Traffic Engineer for the applicant described his credentials and was accepted by the board as an expert witness.

Mr. Proska summarized the traffic study that was prepared on February 21, 2020 and previously submitted to the board. Mr. Proska presented Exhibit A-3 (Rendered Site Plan) and testified that the primary access point to the site will be from Route 38. He further testified as to the circulation to and from the site. Mr. Proska stated that there will be a total of 194 parking spaces for the restaurant and retail uses at the site. There will be 114 spaces for the restaurants and 80 spaces for the retail spaces, all which meets the ordinance requirements. Mr. Proska testified that the size of the parking spaces will be 9' x 18' and there will be ADA-van accessible spaces as well.

John Halbruner, Professional Architect for the applicant described his credentials and was accepted by the board as an expert witness.

Mr. Halbruner presented Exhibit A5 (Elevation, Section & Perspective) and testified that the applicant is proposing to construct a 19,200 square foot brick building with a mixed use for 5 restaurant units and 10 retail units. There will be a seating area, benches & planters on the outside of the building and a total of 240 seats inside for the restaurant use. Mr. Halbruner testified that all deliveries will be made at the rear of the building. There will be canopies with up lights and additional lights on the outside of the building as well. Mr. Halbruner further stated that the building will face the existing Saigon Plaza and will not be facing the neighbors.

Mike Urban, Landscape Architect for the applicant described his credentials and was accepted by the board as an expert witness.

Mr. Urban testified and confirmed that the trash receptacles will be 100 feet from the corner of first residential building at Stonegate. He further stated there will be enhanced buffering at the property, a lighted wet pond with a tubular steel fence around it, gazebo, seating area, guide rail and plantings that are low maintenance at the site. The landscaping in the parking lot islands will be only have low maintenance plantings, shrubs or trees with no grass that needs mowing.

Timothy Kernan, Professional Planner for the described his credentials and was accepted by the board as an expert witness.

Mr. Kernan described the surrounding area around the site and he testified and believes the proposed mixed use facility is ideally suited for this location. Mr. Kernan further testified as to the positive and negative criteria and stated that the benefits of the proposed project outweigh any detriments to the public good, or to the zoning plan. Mr. Kernan also testified as to the variances needed for the project.

Mr. Douglas White, Zoning Board Engineer presented and discussed his review letter dated May 15, 2020. The applicant agreed as a condition of approval to comply with all comments and recommendations within the review letter.

Upon query, Mr. Martz was informed by Mr. Tutwiler that they met with the residents of Stonegate and they would prefer to have easy access to the shopping center from their parking lot. Therefore, he doesn't recommend closing off the access from Browning Road and he believes it will be safer for the residents. Mr. Tutwiler further stated that they made the address of the complex on Route 38 for anyone else who wishes to access it. Mr. Tutwiler further stated that the complex isn't visible from Browning Road due to the Stonegate Two building blocking it. Therefore, he doesn't believe there will be traffic cutting through the Stonegate parking lot from Browning Road to access the shopping center.

Mr. Proska testified that they did include the Browning Road access in their traffic study, and they don't believe there will be a significant amount of traffic cutting through to the complex from Browning Road.

The meeting was open to the public.

Mr. J.B. Reynolds, Executive Director of the Diocese and Housing Services Corporation of the Camden Diocese, 1845 Haddon Avenue, Camden, NJ was duly sworn by the Solicitor.

Mr. Reynolds stated he's been working on the project for the past couple of years with McSean Ung and George Tutwiler. Upon query, he was informed by the applicant that the height of the buffering wall at the rear entrance will be at least 8 feet tall and delivery trucks will not be able to go behind the wall. Mr. Reynolds also stated that there is a cross access agreement between Stonegate I and Mega Palace for non truck traffic and the residents of Stonegate I and II would prefer the internal circulation to get into the Mega Palace parking lot rather than having to circulate to Route 38. Mr. Reynolds further stated that he suggests that a gate be constructed and keep it open. However, if problems should arise with the gate open, especially if it presents a problem with the church, the gate can then be closed.

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 by Mega Palace Investments for a use variance and an amended preliminary, final and major site plan approval with variances and waivers to permit the construction of an approximately 26,800 square foot mixed use retail and restaurant commercial building at Block 6001, Lot 73.04 located in our R-1 Zone. The mixed commercial use is not permitted in the R-1 zone. Therefore, the applicant requires use variance approval. The applicant was previously granted use variance approval for a similar project along with preliminary site plan approval. The applicant did apply for an extension of those approvals and was granted the extension of approvals due to difficulty in securing outside agency approvals. Since the application has been amended, the board should consider this application as a new approval for a D1 Use Variance and take into account that the board already granted a use variance as a consideration when weighing the positive and negative criteria. We would be looking for a motion to grant the use variance approval to permit the mixed retail and restaurant commercial use. For this use variance, the applicant has to show the property is particularly suitable for the proposed non-conforming use, and in this case the applicant's various witnesses testified that the property is surrounded by commercial uses. A prior version of the project was approved with a similar use. These aspects render the site for the applicant's witnesses testimony were suitable for the proposed commercial use and in addition to the particular suitability of the site, the applicant has to show that the refusal to allow the project would impose on the applicant an undue hardship or the proposed project carries out the purposes of zoning as defined by the municipal land use law. The applicant's witnesses testified that several purposes of the land use law were provided by the application, including the promotion of the general welfare and the visual and esthetic appearance of the subject property. The applicant testified that the expanded commercial development and business benefits the general welfare of the township and also that the application makes appropriate use of space in the township by expanding what is an existing commercial plaza and also that the application will promote the visual esthetic of the township in particular given the unique architecture and use for the application. As for the negative criteria, the applicant has to prove that the variance can be granted without substantial detriment to the public good and that it will not substantially impair the intent and purpose of our master plan and development regulations. The applicant testified that the area has many non-conforming, non residential uses and that there would be no substantial detriment to the public, giving that the surrounding commercial uses and therefore, there was no substantial detriment to the public or to the township's zoning ordinance. The Solicitor stated that the first motion for be for the use variance and then a vote for the amended preliminary and final major site plan approval to permit the construction of the mixed use commercial building with the associated site improvements as proposed in the applicant's plans and as modified on the record this evening by the representations and testimony of the applicant. The site plan approval would also include C variances for the minimum lot width due to no existing road frontage, whereas the 75 foot lot width is required. Maximum lot coverage of 70.4% whereas 60% is the maximum lot coverage required. 192-194 parking spaces at the site, whereas 213 parking spaces are required. Parking Space dimensions will be 9' x 18' whereas 10' x 20' is required and 12' x 28' ADA parking space dimensions. Also, to permit no landscape buffer along the property line adjacent to the former school parcel. Also, with the motions, the board also made conditions that the applicant submit revised plans to reflect the consistent 35 foot height of the building and also to reflect the plan as modified by the testimony, compliance with any outstanding comments in the board professional's review letter dated May 15, 2020. Also, the applicant will submit access easement agreements to the board's professional's

for review. The easements permitting some of the encroachments on the adjacent properties and also addressing the cross access concerns the board had. Also, that a gate is constructed at the Browning Road entrance to the site and if issues should arise in the future, the gate will be locked. Lastly, a property maintenance plan is submitted of the interior and exterior of the building.

Mr. Hoyle motioned to grant the Use Variance with the conditions previously stated. He stated that he sees no detriment and he believes the proposed is a good use for the area and for the township. Mrs. Longo seconded. Roll call: Paul Hoyle, Lou Morales, Lysa Longo, Shirley Butler, Darlene Hannah, Diane Piccari, and Duke Martz-Aye. None Opposed.

Mr. Martz motioned to grant the Preliminary and Final Site Plan approval with the conditions previously stated. Mr. Hoyle seconded. Roll call: Paul Hoyle, Lou Morales, Lysa Longo, Shirley Butler, Darlene Hannah, Diane Piccari and Duke Martz-Aye. None Opposed.

**MINUTES:**

It was moved, seconded and unanimously agreed to approve the minutes from the April 15, 2020 and May 6, 2020 hearings.

**CORROSPONDENCE:**

None

**RESOLUTIONS:**

**Resolution #Z-2020-10** granting **AC PELLEGRINI, LLC** site plan approval associated with the approved full service used car dealership with automobile repair and sale of accessories. Premises located at 5910 S. Crescent Boulevard, Block 5845, Lot 1 in Zoning Districts C-2 (Redevelopment).

**BILLS:**

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

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

Florio, Perrucci, Steinhardt & Cappelli- Resolution Prep for Annu Dammalapati-*\$459.00*

Florio, Perrucci, Steinhardt & Cappelli- Legal Services for A.C. Pellegrini, LLC-*\$1,360.00*

Florio, Perrucci, Steinhardt & Cappelli- Triplet Real Estate Litigation-*\$6,471.46*

T&M Associates-Engineering Services for Zippy's Car Wash-*\$1,137.50*

T&M Associates-Engineering Services for Stonegate II@ St. Stephen's-*\$175.01*

T&M Associates-Engineering Services for Mega Palace-*\$95.00*

T&M Associates-Engineering Services for A.C. Pellegrini-*\$475.00*

**COORDINATOR'S REPORT:**

None

There being no further business; it was moved, seconded and unanimously agreed to adjourn the meeting at 10:48 P.M.

Respectfully submitted:



Nancy L. Ellis, Board Secretary