

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, Darlene Hannah, Diane Piccari, 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 on the video call.

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.

Patrick Olivo assumed the seat of absent member Lou Morales.

HEARINGS:

RAGHBIR SINGH-Seeking to convert an existing service station repair building to a convenience store. The existing fuel dispensing facilities and operations will remain. The applicant requests use variance relief for the improvements in the event that the modifications are considered an expansion because of pre-existing non-conforming use. The applicant requests waiver of preliminary and final site plan approval for the improvements or alternatively if it is determined that preliminary and final site approval is required, then preliminary and final site plan approval is requested. The existing service station structure will remain, with the convenience store improvements to be made within the existing service station structure. An 8 square foot sign is proposed on a new 3' x 11' awning, and a new 24 square foot wall sign is proposed on the front of the building. Premises located at 3347 Haddonfield Road, Block 2401, Lot 4 in Zoning District C-1.

Mr. David Hodulik, Esq. came forward to represent the applicant and stated that his client is seeking to convert a pre-existing auto service station to a convenience store. There will be no change to the existing building. They will only be making changes on the inside and they will only be making improvements on the outside of the building. Mr. Hodulik further stated that the proposed use may also be a conforming use in the C-1 zone.

Mr. Douglas White, Zoning Board Engineer came forward to testify and was duly sworn by the Solicitor.

Mr. White testified that the proposed use is a retail establishment and it is a permitted use in the zone and fuel sales as an accessory use is permitted in the zone as well. Mr. White further stated that the applicant is proposing to remove the garage on the property, which is the non-conforming component in the zone.

Mr. John Teets, Architect, 415 Horsham Road, Horsham, PA 19044, Mr. Raghbir Singh and Mr. Monty Singh, (applicant's son), 3347 Haddonfield Road, Pennsauken, NJ came forward to testify and were duly sworn by the Solicitor.

Mr. Teets testified that the existing gas/service station is located on the corner of two county roads, there are two fuel-filling islands with a canopy and a building which contains 2 service bays and a small office with storage for automotive parts. The applicant will not be making any changes to the site other than adding a handicap parking space and some upgrades. The applicant will also be using the existing sign at the corner of the site as well as the signage on the canopy. Mr. Teets testified that they will be filling in the existing service bay doors with store front and an ADA accessible entrance way. They will be installing counters, selling tobacco products, adding coolers for cold drinks and gondolas for pre-packaged foods and snacks. There will be no drive-thru window. A customer will typically stop to get gas and walk into the store to make a purchase at the same time. The building will remain the same other than visual upgrades, an existing sign above the middle of the building will be removed and they will install a new sign on the building to the left of the entrance way where an office and storage will be. The applicant will also install a new 8' x 12' trash enclosure, meet the parking requirement of 8 spaces at the site and they will be eliminating the existing non-conforming use.

Mr. Singh testified that he has operated the service station for many years as a tenant at the site, now he is the owner of the property and to survive as a business owner, he needs to make the proposed changes. The applicant

further testified that the hours of operation will be from 5:00 AM until 9:00 PM, there will be 2 employees on a 5:00 AM to 1:00 PM shift and 2 employees on a 1:00 PM until 9:00 PM shift, 7 days a week. There will be no cooking at the site, only prepared foods, chips, soda, candy and tobacco products. There will be no auto repairs at the site.

Upon query, Mrs. Longo was informed by the applicant that, currently the existing gas station is open from 6:00 AM until 11:00 PM. The applicant further informed Mrs. Longo that the trash enclosure on the residential side of the site will be 6 foot high, they own the property/house immediately next to the site and it will be more than 70 feet away from their house. Deliveries will be made from Haddonfield Road in small-type vans and they will exit onto Park Avenue.

Mr. Martz commented that he believes that the parking at the site for the proposed use may be an issue.

Mr. Douglas White came forward and went over the highlighted items in his review letter dated February 19, 2021. The applicant agreed to all of Mr. Whites comment, recommendations and suggestions and they will be work with him to address any issues as set forth in his letter.

Upon query, Mr. Martz was informed by the applicant that they have not used the building as an auto service repair shop since November 2020 and they propose to convert and use the building for retail sales.

Mr. Hoyle commented he believes the parking situation at the site may be dangerous.

The applicant agreed to work with Mr. White to alleviate any parking issues at the site.

The Solicitor clarified with the board that if they determine the mini mart convenience store is the principal use and the fuel station is the accessory use, then no use variance is required. If the board determines that the fuel station is the principal use and the mini mart convenience store is the secondary use, then a use variance is required.

Mr. Olivo motioned that he believes that the fueling station will be the primary use, the retail convenience store will be the secondary use at the property and the applicant requires a use variance. Mrs. Butler seconded. Roll call: Paul Hoyle, Lysa Longo, Shirley Butler, Diane Piccari, Patrick Olivo-Aye. Darlene Hannah and Duke Martz- Opposed.

Mr. Hodulik testified as to the positive and negative criteria and that under the municipal land use law in order to be granted a use variance, they are required to show special reasons to justify the board's approval for the variance. The purposes of the municipal land use law set forth specific reasons and one of the reasons is if there will be an esthetic improvement to the site. Mr. Hodulik further stated that by eliminating the auto service station, a pre-existing-non conforming use at the site, the proposed use at the site is closer to what is permitted by ordinance in the zone, which is retail use. The proposed retail/fueling station use of at the site will also be a less intense use than what the site was used for, for several years. Therefore, there will be less impact on the neighbors and on the area.

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 and a site plan waiver to permit the operation of a non-permitted principal gasoline station use and accessory mini mart use at 3347 Haddonfield Road, Block 2401, Lot 4 in the C-1 Zoning District. The board previously heard the applicant's testimony as to the operation at the site, the customers coming to and from the site and ultimately the board determined that the principle use at the site is the gasoline station use and the accessory use is the mini mart use and by virtue of the way C-1 Zoning regulations are written in section 141-81 states that a gas station is not a principal use. Therefore, the applicant required a municipal land use law D1 use variance to permit the gas station as the principal use at the site. The board heard testimony from the applicant's attorney as to the positive and negative criteria necessary to be granted a use variance. As the board knows to be granted a D1 use variance the applicant must show special reasons, typically whether the application advances the intent and purposes of the municipal land use law, such as improving the overall esthetic of the subject property, a benefit to the general welfare of the township and the applicant must show that the site is suitable for the proposed use. For the negative criteria, the applicant must show that there is no substantial public detriment or negative impact on the adjacent property owners. That analysis is informed by the presence and participation by the public and the board can consider the fact that

there were no neighbors who appeared tonight to oppose the application and considering the negative criteria and also the board has to consider whether there is a substantial impairment to the township code and to the zoning plan. Here the principal use for which the variance is sought it is permitted as an accessory use and it is permitted in the C-2 zone, which also permits many of the same principal uses that are permitted in the C-1 zone. The proposed use is not typically unusual or not contemplated by the C-1 Commercial zone. It's not a factory or manufacturing plant, so the board can consider those issues as well. Ultimately, we need a vote to approve the use variance to permit the principal gas station use with the accessory mini mart use.

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

Mr. Olivo motioned to grant the application with the conditions and stated he doesn't think the change from a service station to a convenience store will be a detriment as long as the applicant works with the engineer to resolve the issues as set forth in his letter. Miss Hannah second. Roll call: Paul Hoyle, Lysa Longo, Shirley Butler, Darlene Hannah, Diane Piccari, Patrick Olivo and Duke Martz. None Opposed.

The hearing is continued to April 7, 2021 to address the issues as set forth in the Engineer's Review Letter.

CORRESPONDENCE:

None

MINUTES:

None

RESOLUTIONS:

None

BILLS:

None

COORDINATOR'S REPORT:

Not at this time.

There being no further business; it was moved, seconded and unanimously agreed to adjourn the meeting at 9:25 P.M.

Respectfully submitted:



Nancy L. Ellis, Board Secretary