

December 13, 2023
Zoning Board of Adjustment Minutes
Township of Berkeley
627 Pinewald-Keswick Rd P.O. Box B Bayville, NJ 08721

6:30PM

SALUTE TO THE FLAG

Chairman Elliott called the December 13th Zoning Board of Adjustment meeting to order at 6:30PM and asked everyone to please rise for the flag salute and a moment of silence.

SUNSHINE ACT STATEMENT

Chairman Elliott announced: "This meeting was advertised in the Asbury Park Press and posted on the Township's bulletin board as required by the Open Public Meeting Act."

ROLL CALL

Present: Chairman Elliott, Mr. Bombardier, Mr. Ferrara, Mr. Gudaitis, Mr. Haliscak, Mr. McGrath, Mr. Morey, and Mrs. Walsh

Absent: Mr. Bollettieri, Mr. Gerb, and Mr. Mika

Professionals Present from the Municipality: Alex Pavliv from Pavliv & Rihacek, LLC, Ernie Peters from Remington and Vernick Engineers, and and Melanie Adamson from Remington and Vernick Engineers

AGENDA

1. Matthew Roman (Roman Construction, LLC) – BOA#23-6031

Type of Application: Zoning Interpretation

Location: 938 Route 9 Block 1014 Lot 21 & 22 Rural Highway Business Zone

Russell Whitman, the applicant's attorney, and Bill Stevens, the applicant's engineer, presented a request for an interpretation to permit the construction of three buildings containing 21 contractor offices and attendant storage units. The applicant's engineer testified that the ordinance provided for professional and business offices but did not permit or bar contractor's offices. In addition to the proposed 21 contractors' offices each office would have a storage facility to store respective business essentials such as paints, HVAC supplies, other tools and equipment necessary for their business. The Board found that the storing of supplies would not comply with the ordinance as no appropriate conditions would be placed on the conduct of the business. As such the Board found that the proposed uses do not comply with the ordinance and the applicant should file for a use variance.

On a motion to deny this request as a permitted use without a variance by Mr. Gudaitis, seconded by Mr. Bombardier, the request was denied.

Ayes: Chairman Elliot, Mr. Bombardier, Mr. Gudaitis, Mr. Morey

Nayes: Mr. Ferrara, Mr. Haliscak, Mr. McGrath

Abstain: Mrs. Walsh

2. Anthony Cologna (Coastal Carts, LLC) – BOA#23-6034

Type of Application: Zoning Interpretation

Location: 155 Route 9 Block 882 Lot 2.05

The applicant's attorney, Carmine Villani, requested an interpretation to permit the continued use of the sale of low-speed electric vehicles. The applicant testified that he has been selling LSVs since 2019 pursuant to a variance granted by the Board in 2019 under BOA#19-5857. The applicant testified that in 2023 the Town Council of Berkeley adopted an ordinance 23-40-OAB which specifically permitted the sale of LSVs in the GB Zone. However, as the vehicles which the applicant sells are street legal and as such must be registered and insured as motor vehicles, the sale of motor vehicles is not a permitted use in the zone. The Board found the testimony and the fact that the Town Council adopted Ordinance 23-40-0AB persuasive and ruled that the sale of LSVs in the GB zone is a permitted use. There shall be no parking of vehicles in the parking lot. Vehicles shall be limited to the grass areas and showroom. The granting of this interpretation will provide for adequate light and air on the subject site while maintaining sufficient space on the lot in relationship to the adjoining properties.

On a motion to approve this request as a permitted use by Mr. Gudaitis, seconded by Mr. Ferrara, with all present in favor, the request was approved.

Abstain: Mr. McGrath

3. Angela & Patrick McVerry – BOA#23-6024

Type of Application: Construction of Single-Family Dwelling with “c” Variance Relief

Location: 246 Twenty-Third Ave Block 1713 Lot 2373

The applicant's attorney, Richard Stanzione, and their engineer, Matt Hockenbury, presented a variance application to construct a single-family dwelling on an undersized lot. The applicant's engineer testified that the new home would reduce lot coverage as well as mitigating one of the existing nonconformities. The Board approved the variance for: construction of a single-family dwelling on an undersized lot consisting of 2,500 sq. ft. where 5,000 sq. ft. is required and having 25ft. frontage where 50ft. is required, front yard setback 25ft to deck 35ft required, side yard setback 4.1ft proposed 5ft required, combined side yard setback 9.1ft proposed 15ft required. A waiver for curbs and sidewalks was granted. Roof runoff shall be discharged into 2 stone trenches along each side of the lot. The trenches shall be 1ft. deep and 1 ½ feet wide and 10ft long. A waiver for an impervious (stone) driveway was granted. The A/C unit shall be on top of the home. A variance for a 4x4 platform for the electric meter was also granted.

On a motion to approve the variance application by Mr. Gudaitis, seconded by Mr. Haliscak, with all present in favor, the application was approved with the conditions listed by above Mr. Pavliv.

4. Seymour Investments, LLC – BOA#22-5955

Type of Application: Preliminary and Final Major Subdivision and d-5 Density Variance

Location: Chelsea Place

Block: 269 Lots: 12-23 & Block: 270 Lots: 1,2,5,7,9,11,13,15,17-21

The applicant's attorney, Mr. Pagano requested a carry of the above application with no further notice and waiving all time requirements. On a motion by Chairman Elliott, seconded by Mr. Gudaitis, with all present in favor, the application was carried to the March 13, 2024 Board of Adjustment meeting at 6:30pm.

5. 661 Atlantic City Boulevard, LLC – BOA#23-6000

***carried from 10/11/2023*

Type of Application: Use Variance and Preliminary and Final Site Plan

Location: 661 Atlantic City Blvd

Block 1324 Lots 25-32 CR-Zone, Block 1333 Lot 5 HB Zone

John Paul Doyle, the applicant's attorney, continued the use and bulk variance, preliminary and final major site plan application with Patrick Ward, the engineer. The applicant proposed the construction of a 3-story metal building for self-storage and accessory uses. The applicant's Traffic Safety Expert, Reyna Kirchoff, testified on behalf of the applicant. The experts testified that the proposed site is well suited for the proposed use and accessory uses. The applicants testified that the proposed use and construction would be beneficial to the town in that it would clean up and modernize a site that has become an eyesore and possible environmental hazard. The applicants further testified that the proposed uses would diminish the traffic which is currently generated by the existing uses. The Board heard testimony requesting certain waivers; from all submissions and plat detail waivers that may be required with this application. These waivers will be granted. The applicant testified that the new building would be 3 stories in height and house self-storage units. In addition, two accessory uses would remain: Caliber Collision and Enterprise Rent-a-Car. The applicants have satisfactorily answered the questions posed by the engineer and planner in their reports subject to conditions stated being satisfied.

A waiver was requested for a 100 ft. buffer between residential and nonresidential use. A waiver was requested for one-way driveways that will be at least 16ft wide whereas the applicant proposes to use the existing 12.1 ft. A waiver was requested for Route 9 corridor planting 35-48m. A waiver was requested for concrete curbing along the edge of paved surfaces. A waiver was requested for sidewalks. A waiver was requested for fencing in the front yard. The applicant proposed to use the existing driveway. A waiver was requested for entrance and exit driveways which will be at least 500ft from an intersection, whereas applicant proposed to continue to use the existing driveway which is setback 67.7ft. The applicant shall construct a 6ft fence along all the property lines. There shall be no outdoor oil changes or hydraulic lifts. No junk or unregistered vehicles to remain more than 30 days at the site. There shall be no gas pumps on site. The hours of operation are as follows self-storage 7 days per week, Caliber collision M-F 7am to 5pm. Saturday 7-12 Enterprise Rent a car M-F 9-5 Sat 9-12. Enterprise Rent a car shall be permitted a wash bay for rental cars only. Refuse disposal shall be by private hauler. The proposed building shall be setback 50 feet from Route 9 rather than 20 as proposed. The applicant shall apply to the DOT for a de-acceleration lane. All encroachments are to be removed. No dance studio or daycare facility to remain on site. The northerly entrance shall be right turn in and out only and applicant shall install a concrete barrier to effect same. The southerly entrance may remain as it is.

On a motion by Chairman Elliott, seconded by Mr. Gudaitis, with everyone present in favor, the above application was opened for public discussion.

Hearing no one wishing to be heard, a motion to close to the public was entertained.

On a motion by Mr. Gudaitis, seconded by Mr. Haliscak, with all present in favor, the above application was closed for discussion.

On a motion to approve the variance application by Mr. Gudaitis, seconded by Mr. McGrath, with all present in favor, the application was approved with the conditions listed by above Mr. Pavliv.

RESOLUTIONS

On a motion by Mr. Gudaitis, seconded by Mr. Haliscak, with all present in favor, the time extension resolution for BOA#22-5990 was approved.

Abstain: Mr. Bombardier and Mr. Morey

On a motion by Mr. Gudaitis, seconded by Mr. Haliscak, with all present in favor, the resolution for BOA#23-6013 was approved.

Abstain: Mr. Bombardier and Mr. Morey

On a motion by Mr. Gudaitis, seconded by Mr. Haliscak, with all present in favor, the resolution for BOA#23-6017 was approved.

Abstain: Mr. Bombardier and Mr. Morey

VOUCHERS

Alexander Pavliv, Esquire
Remington & Vernick
Linda Sullivan Hill

On a motion by Mr. Gudaitis, seconded by Mr. Haliscak, with all present in favor, the bills were approved.

MINUTES

On a motion by Mr. Gudaitis, seconded by Mr. Haliscak, with all present in favor, the November 8, 2023 meeting minutes were approved.

Abstain: Mr. Bombardier and Mr. Morey

Seeing no one wishing to be heard, a motion to close to the public and adjourn the meeting was entertained.


EXECUTIVE SESSION

On a motion by Mr. Gudaitis, seconded by Mr. Haliscak, with all present in favor, the meeting was closed for executive session.

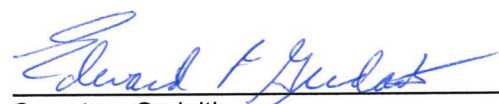
On a motion by Mr. Gudaitis, seconded by Mr. Haliscak, with all present in favor, BOA#21-5929 regarding 207 Dogwood Drive (block 1558 lot 4) will be reheard due to a mistake of material fact the Board originally relied upon to take its action.

ADJOURNMENT

On a motion by Mr. Gudaitis, seconded by Mr. Haliscak, with all present in favor, executive session was closed and the meeting was adjourned at 10:35 PM.



Chairman Elliott



Secretary Gudaitis

Respectively Submitted
Gabrielle Napolitano, Board Secretary