

Mount Laurel Township Zoning Board of Adjustment
Regular Meeting Minutes
May 3, 2023

Opening

The Regular Meeting of the Mount Laurel Zoning Board of Adjustment on May 3, 2023 was called to order by Chairman Gray at 7:00 p.m.

The Pledge of Allegiance and Moment of Silence were observed

The Open Public notice was read by Suzanna Baskay, Board Secretary

Roll call was taken

In Attendance

Chairman Gray, Vice Chair Andersen, Mr. Francescone, Mr. Holmes, Mr. Sharp, Mr. Blum, Mr. Kramer

Absent

Mr. Desai, Mr. Bhankharia

Professionals in Attendance

Ashton Jones, Board Planner, Drew Pavlick, Board Engineer, Mike Angelastro, Board Traffic Engineer and Board Solicitor, Ed Campbell Esq.

Review of Board Procedures

Announcement

Chairman Gray announced that the application for Jeffrey Tubbs, ZB23-D-08, 14 Marter Ave. is carried to the June 7, 2023 Zoning Board hearing.

Adopting the Minutes

Chairman Gray asked for a motion to adopt the fourth regular meeting minutes of 4/5/2023, Mr. Francescone moved the motion Mr. Sharp seconded, all members voted affirmatively and the motion was carried.

Approval of Resolutions

R-2023-ZB11, Jersey Wahoos, ZB23-DS-03, Motion by Mr. Sharp, Second by Mrs. Andersen, all members voted affirmatively and the motion was carried.

R-2023-ZB12, Levaughn Nelson, ZB23-C-07, Motion by Mr. Sharp, Second by Mr. Francescone, all members voted affirmatively and the motion was carried.

R-2023-ZB13, Naavi Realty, ZB23-D-02, Motion by Mrs. Andersen, Second by Mr. Sharp, all members voted affirmatively and the motion was carried.

R-2023-ZB14, Grande Properties, ZB23-C-05, Motion by Mr. Francescone, Second by Mrs. Andersen, all members voted affirmatively and the motion was carried.

Board Professionals were sworn

- All those who testified during the hearing were sworn in prior to their testimony.
- Those who offered expert testimony were accepted as experts by the board.

Petitions before the board

1. Temporary Use – ZB23-73-03, WAWA Store #960, 1115 Route 73, Block 1104 Lot 2. The applicant is requesting temporary use approval per Ordinance 154-73 to allow 1.) 8'x20' office trailer and 1.) 10'x12' lavatory trailer during construction.

The applicant was not present at the hearing. Chairman Gray iterated the request and made a motion to approve. Mr. Francescone seconded the motion. All present voted affirmatively. Motion carried.

2. Michael Reilly, ZB23-C-09, 117 Canterbury Rd., Block 902.03 Lot 1 R-1 zone. This applicant is seeking a bulk variance from section 154-144 to allow a fence with a 0' setback on a side yard adjacent to a street where 20' is required per resolution 4-69 allowing a 20' setback in the side yard adjacent to Westminster Drive.

Mr. Reilly's Testimony

Mr. Reilly testified that the existing fence is a 3' chain link fence. It is an eyesore and in poor shape. The proposed fence is a 6' white vinyl fence. He noted that he purchased the home 2 years ago. The previous owner told him that the fence had been there for at least 15 years and has never been a problem, there had never been any complaints. He stated that he and his wife have 4 children who play in the back yard. They plan to install a pool and trampoline in the future. He expressed concerns for safety and privacy and requests the fence for those reasons. The proposed fence would replace the existing one in the same spot.

Chairman Gray asked Mr. Reilly how the fence would not negatively impact the zone plan.

Mr. Reilly responded that the current fence has been there for 15 years without a problem. He noted that there are several homes in the neighborhood with corner fences at a 0' setback. Mr. Reilly listed 4 property addresses to demonstrate. 1.) corner of Chelsea and Canterbury Rd 2.) 180 Canterbury 3.) 178 Canterbury and 4.) 131 Canterbury / Westminster Ave. has a 4' wall.

Mr. Campbell noted that we don't know if those properties have variances or not. He stated that the other fences with similar encroachments are relevant to the negative criteria by showing that the proposed fence is not inconsistent with the zone plan. The question is whether this is C1 or C2 variance. He noted that in 1969 the board granted a variance to allow a 20' setback acknowledging a hardship in relation to the placement of the house. He asked if there is a lesser that could accomplish what the applicant is trying to do.

Chairman Gray asked where a 20' setback would place the fence.

Mr. Reilly responded that with a 20' setback, the fence would be approximately 2' further into the yard than the home is. (the house is setback 18.2') He stated that the proposed fence would look nicer than the existing and improve the look of the neighborhood.

The board discussed the difference between the sidewalk and the property line. They also discussed the acceptable distance from the property line where the fence could be placed without impeding foot traffic on the sidewalk.

Mr. Reilly stated that he wants to do things the right way.

Mr. Jones stated that the current fence is on the property line which is approximately 1½ to 2' from the sidewalk.

Chairman Gray suggested a setback of 3' from the property line which would not take much from the backyard and still gives relief from the setback requirements.

Mr. Francescone noted that a 3' setback gives room for children on their bikes and also makes the area outside the fence easier to maintain.

Mr. Campbell explained to Mr. Reilly that if he would amend his application to request to run the fence 3' in from the property line the board may be willing to acknowledge that.

Chairman Gray opened the meeting to the public for questions or comments at 7:27, seeing none, closed the public portion.

Mr. Francescone asked Mr. Reilly if he is willing to amend the application to request a 3' setback from the property line as Mr. Campbell stated.

Mr. Reilly agreed to amend the application.

Mr. Francescone made a motion to approve ZB23-C-09 to allow the fence 3' from the property line. Mr. Kramer seconded. Roll call vote. All present voted affirmatively except Mrs. Andersen. Mrs. Andersen stated that she does not believe appropriate showing has been made for a C1 variance. Motion carried.

Chairman Gray called for a break at 7:30 and reopened the meeting at 7:33.

3. DJJZ Enterprises II, LLC., ZB23-D-06, 1225 Route 73, Block 1100 Lot 23, I-zone. This applicant is seeking a Use variance per Ordinance 154-56 to allow a retail jewelry store in an Industrial zone and Bulk sign variances from section 154-92.7.B to allow 2 façade signs where 1 is allowed as well as minor Site Plan approval for parking lot alterations

Melanie Levan, Esq., Earp Chon PC, represented the applicant.

Witnesses Sworn

Jim Brusilovsky, Owner of Marks Jewelers/DJJZ Enterprises II, LLC.; Gary Vecchio, PE, Taylor Wiseman and Taylor and James Miller, PP, applicants Professional Planner.

Exhibits Entered

All documents and plans presented during the hearing were part of the original application

Ms. Levan stated that the applicant DJJZ Enterprises II LLC. will be operating a retail jewelry store as Marks Jewelers. Ms. Levan described the location and zone of the subject property. She stated that the property has been vacant for many years and the jewelry store will revitalize the property. She noted the site is surrounded by compatible uses such as car dealerships, restaurants, and other retail uses. She noted that in addition to the Use variance, the applicant is requesting 2 façade signs on the façade facing Route 73 where 1 is allowed. Ms. Levan testified that the 2 signs together are the same size that would be permitted if they were one sign. She noted that they are also seeking Minor Site Plan approval related to the removal of the drive-through and the addition of a dumpster. No changes to the site circulation or parking lot. She noted the request for a variance from the required EV parking space. Stating that the ordinance calls for the EV make-ready space for retail use over 25 spaces however, this is an existing site with no changes proposed.

Mr. Campbell noted Mr. Jones's review letter, which calls out the requirement for sidewalks with even minor site plans. He asked Ms. Levan if she is requesting a waiver for sidewalk installation. Ms. Levan stated that they are requesting a waiver from the sidewalk provision. She requested 3 separate votes. One for the D1 Use variance, one for the sign variance and one for the site plan including the EV make-ready space variance.

Mr. Brusilovsky's Testimony

Mr. Brusilovsky testified that he has owned the business since 1995. He noted his family history of emigration and ownership of a jewelry store in the Pennsauken Mart. He stated that he is a jeweler not a gemologist. The photo of the Montgomeryville, PA location included in the application was displayed on the monitor. Mr. Brusilovsky explained that his business lives by the motto "Love Grows Here". Currently, the PA store has 39 employees and he plans to open the Mt. Laurel store with approximately 6 employees. The hours will be Tuesday, Friday and Saturday 11 am – 5 pm Wednesday and Thursday 11 am to 8 pm with extended hours on holidays. He testified that they would be very fortunate to be as busy as a bank. He anticipates approximately 5 customers an hour. The store sells high-end jewelry, will provide private trash pick-up and will receive UPS type deliveries as well as armored truck deliveries, no tractor-trailer deliveries. Armored truck delivery times will vary for security purposes during normal business hours. The 3rd page of the site plan was displayed on monitors. Mr. Brusilovsky testified that there is no direct access to the site from Route 73. Access is via the side street (Commerce Parkway). The dumpster will be placed on the side of the building.

Chairman Gray asked why this location.

Mr. Brusilovsky replied that the building is freestanding and for security purposes and flow purposes it works well. Additionally, the bank building already has a vault. Being surrounded by high-end car dealerships, restaurants and retail sites on Route 73 is also an advantage.

Ms. Levan noted very few industrial uses in this industrial zone.

Page 1 of the sign plan was displayed on the monitor.

Ms. Levan described the two requested signs on the front façade. She noted that the glass on the building is not conducive to signage.

Mr. Brusilovsky continued his testimony stating that the "Love Grows Here" sign is important because it sets them apart from other jewelers. He agreed with Ms. Levan that other buildings on Route 73 have multiple signs such as the Lexus Dealership, the BMW Dealership and the Toyota Dealership. Ms. Levan stated that those dealerships may not be in the Industrial zone however, they show that the requested signs are in keeping with what is existing along Route 73. Mr. Brusilovsky testified that the building is 4,190 SF and site is 1.46 acres. Page 2 of the sign plan was displayed on the monitor. Mr. Brusilovsky agreed with Ms. Levan that the dimensions shown on the sign plan are correct and that the total area is 60 square feet which is the maximum sign size permitted for one sign in the Industrial zone. He testified that the letters will be halo lit from dusk to dawn and controlled by a timer. The halo lighting is shown on the Google images of the PA store at night.

Alan Kramer asked if the applicant has considered placing the sign on the brick above the windows.

Mrs. Levan replied that the building is setback from the road quite a bit and in order for the sign to be visible from the road is important to wayfinding and safe ingress. To combine the signs and place them as one sign on brick part of the building the letters would be smaller and less visible.

Mr. Jones explained that if both signs were combined into one sign and were not taller than 36" the sign would comply.

Mr. Millers Testimony

Mr. Miller testified that this segment of Route 73 is devoted to other permitted uses in the Industrial zone such as banks offices and restaurants. The area has the character of a commercial district. The aerial photo included in the application was displayed on the monitors. Mr. Miller noted the surrounding uses. He stated that the application advances purposes a and g regarding the appropriateness of the site and purpose i of the Municipal Land Use Law. Mr. Miller stated he believes the site is particularly suited to the proposed use because the existing bank structure is in good condition and has an appropriate size and scale. It also has interior characteristics such as the vault and plenty of parking that make it particularly suited for the proposed use. Additionally, he stated that the location is on a major highway surrounded by other compatible commercial uses and that the proposed use will be less intense than the bank use. He stated that the lot itself is too small for most permitted uses in the Industrial zone. Additionally, the use is consistent with the historic use of the property and an adaptive re-use of a vacant structure. In reference to the sign variance, Mr. Miller stated that the signs help identify the use, is consistent with the scale of the building and has no detriment. He stated that the benefits outweigh the detriments and it is therefore a better zoning alternative. He testified that the proposed use has no negative impact on the neighboring uses and is overwhelmingly positive. He noted the separation by roads and woods to the neighboring uses. He stated that the use will reoccupy a structure that had a similar use in its intensity. The impact will be less than the previous use and is fully compatible with its surroundings. He reiterated that the lot has sufficient space for this use but not other permitted uses in the zone. He continued that the proposed use will contribute to the economic base of the community and will not create a strain on public services. He believes the application satisfies the criteria in 154-78.

Mr. Angelastro addressed the question of the sidewalk requirement. He stated that he believes the proposed DOT Route 73 improvement project does extend to this site and with that project sidewalks are proposed.

Ms. Levan stated that the applicant will agree that approval of the sidewalk waiver is conditioned upon the applicant demonstrating to the Township professionals that the sidewalk is part of the DOT improvements.

Chairman Gray agreed to the condition.

Mr. Vecchio's Testimony

Sheet 3 of the submitted site plan was displayed on the monitors. Mr. Vecchio described the existing conditions and surrounding roads and businesses. He noted the previous bank had two accesses. The applicant is not proposing any changes to the parking lot. The only change proposed is the removal of the drive-through canopy and subsequent repair of the concrete pad under the canopy and the addition of a trash enclosure on the North end of the site. A crosswalk will be striped for employee crossing. He stated that the site currently has 44 parking spaces and 21 spaces are required by ordinance. Two ADA spots are being provided.

Mr. Jones confirmed that the board has sufficient material in the application to make a decision regarding submission waivers.

Ms. Levan noted that the ordinance requires a make-ready space for any site plan proposing 25 spaces or more for retail. Because there is no change to the site plan with the exception of the canopy removal the applicant is asking for a variance from that requirement. She noted that the parking lot is a pre-existing condition. Ms. Levan noted that the site is only required to provide 21 spaces, therefore, if they were building this from scratch there would be no requirement for a make-ready space.

Mr. Campbell stated that this is a new law that requires each municipality to adopt an ordinance identical to the State Law. Mr. Campbell read the state statute noting that the intent of the law is to provide EV facilities and make the available to people going into retail facilities. He believes a variance is required.

Ms. Levan noted subsection C of that law 40:55D-66 stating “a retailer that provides 25 or fewer parking spaces or single family home shall not be required to provide or install any EV equipment or make-ready space” This is the basis for the request for variance. She reiterated that only 21 spaces are required for this application.

Mr. Angelastro confirmed the required number of parking spaces is 24 not 21.

Mr. Campbell and Chairman Gray noted that the applicant is providing more than 25 but does not need 25.

Chairman Gray asked Mr. Campbell if the applicant was to remove spaces to go down to 24 spaces is it correct that they would not need the EV space.

Mr. Campbell replied that is correct.

Chairman Gray asked the Board Professionals if this is a variance that should be granted.

Mr. Jones responded that he has thought about it in terms of, if a T-Mobile left a strip mall and a Kinkos moved in, would we require them to add an EV space. He said, that we would not. Therefore, his approach, is that if they are not touching the parking lot it is not necessary.

Mr. Campbell asked Ms. Levan how long a customer typically stays in the store. Mr. Brusilovsky responded that a long transaction would be for an engagement ring and that would be approximately an hour or so.

Chairman Gray stated that to ask them to dig up what is there to get down to 24 spots makes no logical sense.

Mr. Sharp stated that if you tear up the parking lot and add green space, from an environmental point of view that would be better for the township and environment. He stated that if the applicant is willing to do that he would give them a variance.

Mrs. Andersen asked about the existing signs on the property.

Ms. Levan stated that they are keeping the existing signs, they are directional.

Mr. Jones stated that the signs are a pre-existing condition that was approved at the time.

Mr. Kramer asked what will be done with the existing windows where the canopy is being removed.

Mr. Brusilovsky replied that it is a bulletproof window and will remain there.

Mr. Pavlick asked the applicant how they are proposing the circulation will work with the 4 lanes and bypass under the canopy. He stated he has safety concerns about how drivers will behave in that area.

Mr. Vecchio stated that they are going to stripe it per ordinance providing a 24’ two-way lane.

Mr. Angelastro stated that he and Mr. Vecchio spoke earlier and Mr. Vecchio will supply an appropriate plan for the area. Mr. Angelastro stated that he believes this is going to be a low volume, low speed area. He noted that he is not overly concerned with the wide open area and with appropriate striping it will work.

Mr. Pavlick asked the applicant if they have the operation and maintenance manual and if they will be responsible for maintaining the underground system.

Mr. Vecchio responded that he will provide the manual.

Ms. Levan made a clarification for the record. She stated that the proposed signs will be on the front façade of the building. The two signs on one façade require the requested variance. The applicant is proposing a third sign on the South side of the building, facing Commerce Parkway, that would be a compliant sign. She noted that the ordinance allows for one façade sign facing each adjacent street.

Mr. Francescone asked what the sign will look like.

Mr. Brusilovsky stated it would have the "M" logo and "Marks Jewelers" like the one on the front façade. He said it will not have the "Love Grows Here" sign or phrase.

Mr. Jones confirmed that they are allowed one sign on each façade facing a street.

Mr. Campbell asked Ms. Levan to confirm that she agrees to comply with the recommendations and conditions in the board professional's review letters except as otherwise identified during the hearing.

Ms. Levan agreed that the applicant would comply.

Mr. Jones added that when the applicant resubmits, they should resubmit with the complete sign package.

Chairman Gray opened the meeting to the public for questions or comments. Seeing no-one, he closed the public portion.

Chairman Gray asked for a motion to approve the use variance to allow retail use in the Industrial zone. Mr. Francescone moved the motion, Mrs. Andersen seconded. Roll call vote. All voted affirmatively, the motion was carried. Approved

Chairman Gray asked for a motion to approve the sign variances to allow 2 façade signs on the façade facing Route 73. Mr. Francescone moved the motion, Mr. Kramer seconded. Roll call vote. All voted affirmatively, the motion was carried. Approved

Chairman Gray asked for a motion to approve the proposed Site Plan, Site Plan Waivers and the EV make-ready parking space variance from section 154-80.5.

Mr. Campbell noted the conditions of the approval as follows:

1. Applicant will demonstrate to the Board Traffic Engineer, that sidewalks are contemplated to be part of the DOT Route 73 improvements.
2. The variance from the required make-ready EV space is limited to the enjoyment of this applicant and will lapse upon cessation of this applicant's occupancy
3. Site Plans will be resubmitted addressing the circulation and striping related to the removal of the Drive-through lanes
4. The applicant will submit the Stormwater Maintenance Manual and agree to abide by the provisions of same.
5. The applicant will submit a sign plan including all signs proposed including the existing signs that will remain on site.

Mr. Francescone made a motion to approve, Mr. Holmes seconded. Roll call vote. Mr. Francescone, Mr. Holmes, Mr. Kramer, Mr. Blum and Chairman Gray agreed. Mr. Sharp disagreed stating that he believed the applicant should be required to install the EV make-ready spaces, Mrs. Andersen disagreed stating that she agreed with Mr. Sharp. Motion carried. Approved

Discussion took place regarding the number of resolutions to be prepared. Ms. Levan expressed her inclination for 3 separate resolutions for the sake of clarity and to allow the tenant fit-out to begin as soon as possible.

Mr. Campbell agreed to prepare 3 separate resolutions.

Adjournment:

Chairman Gray asked for a motion to adjourn at 10:55, Mrs. Andersen made the motion, Mr. Francescone seconded all voted in favor.

Adopted on: June 7, 2023

Suzanna Baskay
Suzanna Baskay, Secretary
Zoning Board of Adjustment