



**CITY OF ABSECON
Municipal Complex
500 Mill Road
Absecon, New Jersey 08201**

PLANNING & ZONING
Tina M. Lawler, Secretary

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**MARCH 21, 2023
ZONING BOARD
MEETING MINUTES**

The meeting was called to order by Chairman, Pat Malia at 7:00 p.m.

Flag Salute

A moment of silence was held in honor of Bill Fritz who passed away

Notification of Meeting

ROLL CALL

PRESENT: Baltera, Cottrell, Koussoulis, Lawler, Sellers, Seher, Malia

ABSENT: Famularo, Reilly

ALSO PRESENT: Board Attorney, Jim Grimley and Board Engineer, Eddie Dennis

OLD BUSINESS:

VOTE: Minutes of February 21, 2023 meeting

Motion to approve: Chris Cottrell – second – Matt Lawler

All were in favor

VOTE: D&R for Appl. #1-2023 for 445 E. Absecon Blvd. LLC – Block 225 – Lot 1 – 445 E. Absecon Blvd. for a “D” use variance for construction of a warehouse with office space; a use variance for construction of an outdoor advertising sign; a use variance for utilization of clean dredged material as backfill and a “C” bulk variance for building length

Motion to approve – Chris Cottrell – second – Arianne Sellers

ROLL CALL: Cottrell, yes; Koussoulis, yes; Lawler, yes; Sellers, yes; Seher, yes

NEW BUSINESS:

Appl. #2-2023 for Emory, Inc. d/b/a Hi Point Pub – 5 N. Shore Road – Block 170 – Lot 22 for a “c” bulk variance for lot coverage for re-pavement of the parking lot

Board member Lawler stepped down due to a conflict.

David Schroth, Esq., applicant's Attorney and Andrew Schaeffer, applicant's Engineer and Planner, who was sworn in and listed some of his credentials

Andy – went through Eddie's review letter. Exhibit A-1 – an aerial photo of the site was marked into evidence. We are here tonight for a “C” variance for lot coverage. The area of new lot coverage is 3500 sq. ft. and is in the NE corner of the property. It is made up of recycled asphalt and gravel mixed together. Underneath this old broken pavement was found. He then went through the code and read off paragraphs A, B and I that applied to this. Exhibit A-2 – a photo of the NE corner was marked into evidence. There is a shed in the rear where the trash is and they plan on putting a light on the shed since the area is dark. There is an area of striped parking along Creek Road that does extend into the right of way by 3.5 ft. However, if you move these back 3.5 ft., we would still have a 24.5 ft. wide drive aisle, which is compliant. All the other paving is in good shape and the traffic flows through the site, so the drive aisles are big enough. He believes the benefits outweigh the detriments, specifically with public safety because this is a public parking lot in terms of people being able to access the lot and safely entering the building. In his opinion, it is not a detriment to the zone plan, zoning master plan or the zoning ordinance. This is a benefit improving this compared to what was there before.

Pat – asked when Mr. Jacobs purchased the property and when the property was paved

Todd Jacobs – was sworn in and said that he purchased the property in February 2015 and it was paved around July 2020 during the pandemic.

Pat – asked if anyone thought to ask permission to do this. Permits are required in all towns for this type of work.

David – our interpretation of the situation that he was just repaving this, since it was paved at one time and as it unfolded it became apparent that this variance was needed to be done.

Pat – inquired about the parking spaces that extend into the right of way.

Andy – yes, they do extend by 3 ½ ft. into the public right of way, but we are offering to move them back that amount and we would still have enough space to maintain a 25 ft. drive aisle.

Pat – asked for a clarification of the striping of the parking lot and when it was completed. What about storm water runoff?

Andy – it is 3,500 sq. ft. of an area that went from packed gravel and recycled asphalt to paving, which there would be some difference in the amount of run off, but not significant.

Eddie – went through his report and some housekeeping items. The proposed lot coverage is about 93% out there now, and the maximum allowed is 75%, so this is the “C” variance at hand. It has been past practice of this board to treat new impervious coverage as a change in lot coverage and was done for the UHaul application. Regarding the parking in the right of way, his recommendation is for the lot to be restriped to remove that parking from the right of way and he feels in order to ensure that that happens, we would need from the applicant, an updated survey that shows where the actual existing parking spaces are located, so that we can confirm once it is restriped, that the spaces are out of the right of way. To clean up the record, he feels it would be appropriate for a condition of approval, that a street opening permit to be required, which he has also discussed with the construction official. A new updated survey is required as well. Lighting was discussed with the

applicant's engineer earlier today and they have proposed to add lighting to the NE corner of the property and this is an appropriate condition of approval as well. As to the drainage, the increase would be minimal, but he asked them to confirm again if there would be any down stream impact and where is that run off going?

Andy – the run off will go south then it turns east and quickly goes into the bay.

Eddie – given that we have a lot that is almost 100% covered at this point, is there any consideration to adding some landscaping to the site to offset some of the excessive coverage?

David – there was no consideration to this, but if the board thinks that somehow it would be beneficial, we are happy to entertain the idea to assist this process.

Chris – are there any areas where that can be done?

Andy – the only opportunity would be the area that is in the right of way again.

Greg – there has never been any landscaping before

PUBLIC PORTION

Bob Preston – 601 Sooy Lane – we all are aware that this site is at the gateway to Absecon and the commercial district and right now he'd say it doesn't put the best face forward. In addition to addressing some of the drainage issues, he thinks landscaping would add aesthetics and a reduction in the some of the storm water runoff. He realizes it is not an easy fix, but he believes that it would benefit in enough ways that is worth consideration.

David – he appreciates Mr. Preston's comments, but it is important to note that this business has been here in this state for 50 years and if were to entertain the idea of landscaping, we would be creating precedent for going into any business in town.

Pat – his argument back was that something was done here to cover what was an impervious surface or what was viewed as one. This area was never paved before and it is an ill-gotten gain that you are can park there.

Lily Peterson – 203 Cynwyd Drive – the potential new owner of the business and said that this is one of the final items that is keeping us from having closing and would like the board to take that into consideration as well. We are anxious to move forward with our plans. She is interested in landscaping, so she plans on calling Bob for some help.

Public Portion closed

Board had open deliberations at this time

Pat – you have 35 parking spaces and how many seats in the bar?

Todd Jacobs - total capacity he believes is 204

Greg – in the aerial photos, are you able to determine any historical evidence of the lot and what it looked like?

Andy – yes and he then passed around a photo from 2020. Exhibit A 3 – an aerial photo from 2016 was marked into evidence as well as Exhibit A 4 – an aerial photo from 2015.

The photos were then discussed and what could be seen on the lot.

Steve – feels the water runoff is out of our jurisdiction and confirmed with Eddie

Greg – the new parking arrangement seems to be beneficial as to compared to what it was before

Pat – he has big problems with the theory. We have a property owner that moved forward with something without asking any permission or if a permit was required. We are moving forward with an after the fact approval, something that was done basically illegally and should not have paved the

whole lot. Maintaining 35 spaces does not help the situation and the storm water runoff is always a problem, whether it be a little or a lot and it does go quickly into the creek, which might not be a good thing either. But we are here and either we approve or deny it. The spaces would need to be moved back, because we cannot approve any plan with portions of this property on someone else's. We have the current owner and the contract purchaser in attendance who are both asking for relief, so we would be moving things along if we approve it. In theory he is against it, but would vote for it to move things forward.

Greg – what is the course of action if we deny this?

Eddie – they would have to remove the area that was not paved before as shown on the older survey.

Arianne – she shares the concerns of the water runoff and the right of way issue. She asked what other permits they would need to get.

Eddie – his final comment is for them to follow up with me to make sure they are compliant and no other permits needed from other entities. It would be up to them to investigate that. The road opening permit will be issued by his office and should be a condition of approval. We would need to see an updated survey that shows where the spaces are now or where they will be and some means of measurement so we can confirm that those spaces are out of the right of way.

David – thanked the board for their attentive questions and asked that they grant the variance and we are happy to comply with any conditions that would be imposed

Jim – based upon the acceptance of conditions, the city would want an updated survey to show proposed parking spaces as part of a street opening permit and the condition of lighting being installed in the NE corner of the site.

Motion would be to grant request for bulk variance relief to allow lot paving coverage of 93.2%.

Motion to approve – Chris Cottrell – second – Marina Koussoulis

ROLL CALL: Baltera, yes; Cottrell, yes; Koussoulis, yes; Sellers, yes; Seher, yes, but I don't like asking for forgiveness instead of permission, but given the nature of the site; Malia, similarly I voiced those concerns earlier and I don't think people should gain from ill-gotten actions, but this does help move the project ahead, somewhat clean up an eyesore and does not substantially deviate from the zoning plan of the city, therefore I vote yes. Application was approved 6 to 0.

ADJOURNMENT

Motion to adjourn – Greg Seher – second – Arianne Sellers

All were in favor.

Respectfully submitted,



Tina Lawler, Secretary

Approved: 4-18-23