

**TOWNSHIP OF FRANKLIN
ZONING BOARD OF ADJUSTMENT
COUNTY OF SOMERSET, NEW JERSEY**

**REGULAR MEETING
March 16, 2017**

This Regular Meeting of the Township of Franklin Zoning Board of Adjustment was held at 475 DeMott Lane, Somerset, New Jersey and was called to order by Robert Thomas, Chairperson, at 7:30 p.m. The Sunshine Law was read and the roll was called as follows:

PRESENT: Raymond Betterbid, Laura Graumann, Alan Rich, Robert Shepherd (arrived at 7:35 p.m.), Anthony Caldwell, Gary Rosenthal, Cheryl Bergailo and Chairman Thomas

ABSENT: Donald Johnson, Bruce McCracken and Joel Reiss

ALSO PRESENT: Mr. Patrick Bradshaw, Board Attorney, and Mark Healey, Planning Director

RESOLUTIONS:

- **NYSMSA / ZBA-1600036**

Vice Chair Graumann made a motion to approve the Resolution as submitted. Mr. Rosenthal seconded the motion and the roll was called as follows:

FOR: Vice Chair Graumann, Mr. Rich, Mr. Rosenthal, Ms. Bergailo and Chairman Thomas

AGAINST: None

- **101 Mettlers Road, LLC / ZBA-1600036**

Vice Chair Graumann made a motion to approve the Resolution as submitted. Mr. Betterbid seconded the motion and the roll was called as follows:

FOR: Mr. Betterbid, Vice Chair Graumann, Mr. Caldwell, Mr. Rosenthal and Ms. Bergailo

AGAINST: None

- **Rivera / ZBA-1600043**

Mr. Rosenthal made a motion to approve the Resolution as submitted. Mr. Caldwell seconded the motion and the roll was called as follows:

FOR: Mr. Betterbid, Mr. Rich, Mr. Caldwell, Mr. Rosenthal and Chairman Thomas

AGAINST: None

HEARINGS:

- **TRUST UNDER ARTICLE 6 u/w/o SIGMUND SOMMER & LEVIN PROPERTIES, LP / ZBA-15-00017**

Use Variance in which the Applicant was proposing to construct 50 townhomes at 31 Cedar Grove Lane, Somerset; Block 468.09, Lot 34, in an R-40 Zone – **CARRIED TO APRIL 20, 2017, WITH NO FURTHER NOTICE REQUIRED**

Chairman Thomas asked if there was any progression with the Township's own expert that they planned to hire. Mr. Healey indicated that Mr. Dominach was working towards hiring someone, but there was some delay with the municipal procurement process. He added that they hoped to have someone in place by the April 20th meeting.

- **50 ATRIUM DRIVE, LLC / ZBA-17-00003**

Mr. Peter Lanfrit, Esq., Attorney, appeared before the Board on behalf of the Applicant, 50 Atrium Drive, LLC. The Application was for a Use Variance in which the Applicant seeks to occupy the building with an electronics warehouse/distribution use at 50 Atrium Drive, Somerset; Block 468.01, Lot 24.01, in the C-B Zone.

Mr. Lanfrit stated that in 1989, there was an application before the Zoning Board to convert a warehouse at 50 Atrium Drive, to the Garden State Exhibit Center. He added that the Exhibit Center was a tenant on the property in 1989, but was given the opportunity to purchase the property when the owner put it up for sale, but chose not to. Mr. Lanfrit then told the Board that the Applicant, 50 Atrium Drive, LLC, had just signed a contract to purchase the property. He went on to explain that at one time, the property was zoned for warehousing, but had been changed to a C-B Zone, so they were there that evening to obtain a Use Variance to use the property for warehousing again.

Mr. Farkas, COO of Valor Group, came forward and was sworn in. Mr. Farkas indicated that the Valor Group wholesale and retail cameras and electronics. Currently, Mr. Farkas testified, that they rent space from Heller Industries at 245 Belmont Drive in Somerset, NJ for the past seven (7) years. He added that they have a smaller warehouse and offices in Miami, FL. Mr. Farkas then described the business, stating that they buy and sell and import cameras and electronics, with the retail portion of the business mostly online. He then told the Board that

their current location has 99,600 sq. ft., with a 3,000 sq. ft. retail store, 27,000 sq. ft. of offices and the rest was used for warehousing. Mr. Farkas then indicated that they currently have 85 employees. He then testified that the Valor Group was the same entity as 50 Atrium Drive, LLC, who was the contract purchaser for the convention center and former warehouse. He added that the plan was to move the entire operation to the new location, should the Use Variance be granted. However, he indicated that their lease was up on May 31, 2017 at 245 Belmont Drive and the closing was not scheduled until July 6, 2017, so they would have to make a temporary move in the interim. Mr. Farkas then stated that they would be using the building in the same way they were currently using the facilities they were in, including the bulk of it for warehousing, some office space and a small retail space. He then went on to discuss the need for a small retail store in that business. He discussed the present hours of operation as 7 a.m. to 10:00 p.m. with several shifts and would remain the same at the new location. He added that the retail portion of the operation had hours of operation from 10:00 a.m. to 5:00 p.m.

Mr. Shepherd inquired as to the square footage of the new location, and Mr. Farkas indicated that it was 83,000 sq. ft.

Mr. Farkas then discussed how the products arrive to and leaves the property as well as how many trucks come to the site. He discussed having larger tractor trailer trucks and some small vans coming to and from the site, noting that they purchase products from some local wholesalers in the region and usually have 4-5 tractor trailers per day coming to the site. He then indicated that they ship out their merchandise by UPS and FedEx as well as some vans/box trucks owned by the company. Mr. Farkas testified that there were three (3) regular loading docks as well as a drive-in double loading dock. He indicated that the loading areas was adequate for their needs at that time and were not planning to add any additional loading docks to the building. He then told the Board they would like to utilize the existing sign out on Davidson Avenue for their company name.

Vice Chair Graumann inquired about how long it might be before they would outgrow the building, and Mr. Farkas indicated that he felt it would be adequately sized for their needs for at least the next 5-7 years even though the proposed building was smaller than their current location. He stated that they do have a lot of extra space at their current location that was not being utilized and they would also not need all of the parking spaces that currently exist on the site. Mr. Lanfrit stated that there were 49 parking spaces on the site and indicated that if in the future they look to expand the building, they might look at eliminating some of the parking spaces if they were no longer necessary.

Mr. Shepherd inquired as to whether they would be agreeable to limit the hours of operation of the warehouse use to between 7:00 a.m. and 10:00 p.m. and the retail space to between 10:00 a.m. and 5:00 p.m. Mr. Farkas stated that he would probably need some additional hours of operation later in the day for the warehouse during their busy season between October and December. He added that the store would not be affected. He then discussed with the Chairman the proximity to Rte. 287 for the truck traffic as well as the price for the property that was still located in Somerset, NJ and convenient for current employees as being the main reasons for selecting the site for their operations.

Ms. Bergailo inquired as to where in the building the retail store would be located. Mr. Farkas stated that it would be in the current office area, but they didn't have an exact plan yet. Ms.

Bergailo then asked whether they would be maintaining the parking area that was not being utilized, making sure that it was free from weeds, etc., and Mr. Farkas answered in the affirmative.

Mr. O'Brien, Planner, came forward and was sworn in. The Board accepted his qualifications. Mr. O'Brien then handed the Board members each an aerial photograph, from Google Earth, depicting the subject property and some of the other land uses in the area and was marked into evidence as Exhibit A-1. Mr. O'Brien then explained, for the Board's edification, the subject property, its prior use and its present use, reiterating Mr. Lanfrit's introduction stating that they were seeking a Use Variance to use the building as a warehousing facility, which was the way the property was formerly zoned, but re-zoned to the C-B Zone in the late 1970's or early 1980's. Mr. O'Brien then discussed how the Master Plan and Zoning Ordinance of the Township gave guidance with respect to the subject property and the Application before the Board that evening. He then briefly reviewed for the Board the permitted uses in the C-B Zone and whether any of those uses could reasonably function on the site without tearing down the building. He stated that he didn't believe that the acceptable uses in the zone would function well there without making significant changes to the building with enormous financial outlay due to the height of the ceilings and the access. Mr. O'Brien then indicated that there was another warehousing facility right across the street from the subject property (Rotor Clip), another one catty-corner down the street (Korbett). Referring to the Township's Technical Review Committee (TRCC) report, dated March 2, 2017, Mr. O'Brien testified regarding the proofs that have to be met for a Use Variance, stating that items A, G and M of the Municipal Land Use Law (MLUL) had been met for the Application. He added that the proposal could be reconciled with the Master Plan and Zoning Ordinance that related to the first prong of the negative criteria. Lastly, Mr. O'Brien stated that they had to show that there was no negative impact to the neighborhood and surrounding area, noting that there were similar uses surrounding the subject property and that the property was well buffered to the hotel behind the property, as pointed out by Mr. Shepherd. He then testified that the office and warehouse uses would not be negatively affected in any way by the Application.

Mr. Healey noted that the Rotor Clip operation across the street from the subject property was actually located in the M-2 Zone. He noted that the Township had a few warehouses that had a small retail component, but asked for clarification regarding the square footage of the retail component at the subject property. Mr. Lanfrit indicated that the retail space was 1,300 sq. ft., and Mr. Healey indicated that it was well within the maximum of 5% of the total square feet of the building. Mr. Healey also noted that since the loading docks were in the front of the building and there was parking right behind that area, that there might be required some minor re-striping in the parking lot to allow the trucks to park and unload. A discussion ensued among the Board. Mr. Lanfrit suggested that they might want to do a site visit with a Township representative to come to an agreement regarding adequate space for trucks to maneuver into and out of the loading dock area. Mr. Healey suggested that this be done as part of any approval, with agreement from the TRCC.

Chairman Thomas made a motion to open the meeting to the public for comments or questions.

A Township resident asked whether the Applicant was planning on hiring additional employees as a result of the move. Mr. Farkas stated that they weren't planning to do so immediately, unless business starts to grow. A question arose regarding any additional traffic impact the 85

employees coming to the site would have. Mr. O'Brien stated that they believed the operations would have much less of an impact than the current convention center use of thousands of people attending conventions or exhibits daily as well as the truck traffic the comes with supplying the center with supplies and materials for the convention vendors during the week. The resident asked if the excess parking would be utilized for anything else, and Mr. Farkas answered that they had no plans in the immediate future.

Chairman Thomas stated that he did not want to see any outside storage unless another building was constructed for such a purpose. Mr. Lanfrit stated that the ordinance did not permit outside storage, and they would not store cameras or electronic equipment outdoors in any event.

Chairman Thomas made a point of saying that he hoped the tractor trailer traffic from and to the site was confined to utilizing Rte. 287 and not local roadways. Mr. O'Brien indicated that the cameras and electronic equipment were typically coming in or out of either the Port of Elizabeth, Port of Newark or Newark Airport and trucks would most likely utilize Rte. 287 out of convenience.

The Board discussed utilizing the same lighted sign that was presently on the property, and Mr. Lanfrit concurred.

Vice Chair Graumann made a motion to grant approval of the Use Variance and agreements for hours of operation and everything discussed during the hearing. Mr. Betterbid seconded the motion and the roll was called as follows:

FOR: Mr. Betterbid, Vice Chair Graumann, Mr. Rich, Mr. Shepherd, Mr. Caldwell, Mr. Rosenthal and Chairman Thomas

AGAINST: None

WORKSESSION/NEW BUSINESS

There was no new business

MEETING ADJOURNED

Mr. Shepherd made a motion to adjourn the meeting at 8:10 p.m. Mr. Betterbid seconded the motion and all were in favor.

Respectfully submitted,

Kathleen Murphy, Recording Secretary
March 30, 2017