



ZONING BOARD OF ADJUSTMENT
Thursday, December 6, 2018
APPROVED MINUTES

You couldn't pick a better place.

OPENING: The meeting was called to order by Chairman Jonathan Rardin at 7:37 PM.

PLEDGE OF ALLEGIANCE: Led by Chairman Jonathan Rardin.

OPMA STATEMENT: Read by Chairman Jonathan Rardin in compliance with the Sunshine Law.

ROLL CALL

- **Members in attendance:** Jonathan Rardin; Daniel DiRenzo, Jr; Ivy Rovner; Jeff Potter; Jennifer Apell; and Marshall Spevak.
- **Professionals in attendance:** Lorissa Luciani, PP, AICP, Director of Community Development; Jacob Richman, PP, AICP, Planner; C. Jeremy Noll, PE, CME; and Allen S. Zeller, Esq., Zoning Board Solicitor.

ADMINISTRATIVE ITEMS

Adoption Meeting Minutes from November 1, 2018. Ms. Rovner made a motion, which was seconded by Mr. DiRenzo, to adopt the Meeting Minutes from November 1, 2018. Affirmative votes by DiRenzo and Rovner. Minutes are approved.

Adoption Meeting Minutes from November 15, 2018. Mr. Spevak made a motion, which was seconded by Mr. Potter, to adopt the Meeting Minutes from November 15, 2018. Affirmative votes by Rardin, DiRenzo, Apell, Potter, and Spevak. Minutes are approved.

AGENDA ITEMS:

18-Z-0033

Block(s) 342.34 Lot(s) 4 Qualifier: C0001
Zone: Limited Office (O1)

Stars Real Estate, LLC

413A Route 70 East
Cherry Hill, NJ 08034

Relief Requested: A Site Plan Waiver with Use (D) and Bulk (C) Variances to permit a yoga studio (Moonshine Power Yoga) in an O1 zone and to permit less parking than what is minimally required. Specifically, the applicant is seeking permission to occupy the space formerly occupied by Frame & Art. No site improvements are proposed.

Applicant's Representatives: Melanie Levan, Esq. – Applicant's Attorney; Janine Miller – Property Manager; James Miller, PP, AICP – Applicant's Professional Planner; and Gina Ward – Yoga Studio Operator/Instructor.

Exhibits Submitted: A-1: Sample Schedule.

Ms. Levan gave an overview of the subject site and noted that the applicant is requesting a use variance to operate a yoga studio in the O1 zone. Ms. Levan indicated that the prior use of subject building was a store called Frame & Art. Ms. Levan noted that the site also contains a separate building (condo) utilized by Katz/Pierz which is an insurance benefits firm. Ms. Levan added that the applicant also requires a bulk variance to permit 27 parking spaces where 33 parking spaces are required. No site improvements are proposed.

Ms. Ward stated that the yoga business, known as Moonshine Power Yoga, will be doing business as Heart & Grit Power Yoga. Ms. Ward stated that she operates the proposed yoga studio and it is currently located in the Short Hills Towne Center shopping plaza but that they want to move to this new, smaller space. Ms. Ward affirmed that no State licensing is required to be a yoga instructor. Ms. Ward stated that she hopes to have 23 classes per week and that classes start as early as 5:30am and as late as 7:30pm with varying times throughout the day. Ms. Levan noted that the applicant would share the site parking with Katz/Pierz who operates during normal business hours while the yoga studio would operate throughout the day and the weekend. Ms. Levan submitted Exhibit A-1 to showcase the anticipated class schedule for the yoga studio and noted how the peak class times won't conflict with the Katz/Pierz office use due to the expected class sizes which will be less during the Katz/Pierz peak usage times with larger class sizes during Katz/Pierz's off-peak times. During the Katz/Pierz's normal business hours, class sizes will range from 2 to 4 people and ranging as high as 13 on weekends (inclusive of the instructor). Ms. Levan noted that there are 7 parking spaces located adjacent to the existing

Frame & Art building and 26 parking spaces located adjacent to the Katz/Pierz building. Ms. Levan stated that the peak parking for each business occurs at different times. Ms. Ward added that they will share a dumpster with Katz/Pierz and only expects 2 to 3 bags of trash per week. An overview of the site lighting was also provided with the applicant indicating they would use the existing site lights. Lastly, Ms. Ward stated they intend to change out the panels on the existing façade and freestanding sign.

Mr. Miller gave an overview of the site location and surrounding uses and stated that he believes the site is particularly suited for a yoga studio use as the site was previously approved for other non-permitted uses such as retail. Mr. Miller indicated there is less of demand for office uses and that this site has shown the ability to accommodate other kinds of uses. Mr. Miller stated that no exterior changes to the site are proposed so the impact will be minimal and will integrate well within the O1 zone. Furthermore, the proposal is an adaptive re-use which is consistent with the goals of the Master Plan. Mr. Miller provided the positive and negative criteria for the proposed parking variance and noted that it would be a hardship for the applicant to reconfigure the site to provide additional parking spaces. Mr. Miller stated he does not believe the granting of this variance would be a detriment to the public good and likened the yoga studio to services that are provided by typical office uses. Mr. Miller reiterated that the yoga studio and Katz/Pierz office use will have different peak times and as such, ample parking will be available.

Ms. Ward added that she can likely fit 20 mats in the studio but can cap the amount of people. Ms. Ward also noted that once the class starts, no additional customers can come in (for hot yoga). Ms. Miller gave a more detailed overview of the lights that are located around the site and affirmed that the building mounted lights point towards the parking lot and not towards the property lines. The applicant affirmed that the lighting will comply with the Zoning Ordinance and that the lights will be on a timer. Ms. Miller confirmed that the Katz/Pierz office use is open from 9am to 5pm on weekdays and closed on weekends. Additionally, it was noted that many of their employees work remotely and as such, there is never overflow of parking into the front 7 parking spaces. Ms. Miller affirmed that the parking lot is a common area for the two uses on the site. Ms. Ward testified that customers cannot parking on any neighboring property. Lastly, a discussion about ADA requirements ensued.

Public Comment: Tom Huber of 417 Morris Drive stated that he is a member of the neighboring Trinity Presbyterian Church and added that he is concerned about the proposed hours of operation. Mr. Huber stated that his Church services are full on Sunday morning, and as such, he is concerned the yoga studio patrons will try to park on their lot. Mr. Huber referred to a parking agreement between the Church and Katz/Pierz allowing Church members to park behind the office on Sunday but he was not aware of a formal agreement. Ms. Luciani noted what the parking regulations are as well as Title 39 enforcement. Mr. Huber stated that ere some Katz/Pierz employees who park at the Church property and walk over

Walter Steinle of 494 Browning Lane noted that there is a "gentlemen's agreement" to allowing parking between the Church and Katz/Pierz. Ms. Luciani noted that a "gentlemen's agreement" is not a formal or legal agreement and that without approval from the Board, it is a Zoning Violation. Ms. Luciani stated that the proposed yoga studio will have to agree to only park on their property.

Motion: Following a review of the application and conditions of approval by Solicitor Zeller, a motion was made by Mr. Spevak and seconded by Mr. Potter, with affirmative votes for approval by Rardin, DiRenzo, Rovner, Potter, Apell, and Spevak for the approval of the Site Plan Waiver with Use (D) and Bulk (C) Variances. Motion carries 6-0.

18-Z-0024

Block(s) 404.45 Lot(s) 1
Zone: Residential Agricultural (RA)

Brian & Laurie Wolfson

110 Munn Lane
Cherry Hill, NJ 08034

Relief Requested: An application for bulk (C) variances and tree removal to construct a 48' X 96' freestanding equestrian stable/barn inclusive of an integrated 24' X 50' garage as well as fencing around the pasture along with various site improvements.

Applicant's Representatives: Richard Hoff, Esq. – Applicant's Attorney; Brian Wolfson – Applicant; Richard Clemson, PE – Applicant's Engineer; John Rockwell Hosbach Jr. – Applicant's Urban Forester; Joe Sikora, LLA – Applicant's Landscape Architect; and Larry Ragone, PP, AICP, Applicant's Professional Planner.

Exhibits Submitted: A-1: Site Plan Rendering; A-2: Barn Elevation Plan; A-3: Barn Floor Plan; A-4: Landscape Plan; A-5; Hardscape Design; R-1: Photo Exhibit (Prior Conditions); and R-2: Photo Exhibit (Tree Clearing).

Mr. Hoff gave an overview of the proposed application and noted the prior approvals the applicant received from the Board in 2017 for horse keeping, tree removal, and bulk variances that involved the single-family home on top of the stable. Mr. Hoff explained that the applicant has since abandoned those approvals, receiving a zoning permit for the single-family residence, and that they are now presenting a new design involving a freestanding stable/barn to be located behind the residence. Mr. Hoff explained that the Zoning Ordinance does not address many of the ancillary needs

involved with horse keeping. Mr. Hoff stated that the applicant requires variances for fence height in order to keep the horses contained as well as variance to permit a second garage which will be primarily used for the storage of horse keeping materials and farm equipment. Mr. Hoff noted that due to the changes in the proposed development footprint, major stormwater management requirements per NJDEP standards were triggered. As such, a basin is now proposed.

Mr. Clemson submitted exhibit A-1 and gave an overview of the proposed site improvements consisting of a pasture, single-family home, stable, drainage basin, driveways, and landscaping. Mr. Clemson noted that the house received prior zoning approval and that it is nearly finished being constructed. Mr. Clemson stated that the approved house has an integrated attached garage and that the proposed second garage is located within the footprint of the proposed stable. Mr. Clemson stated that the pasture area for the horses is to be enclosed by a proposed 5' tall post and rail fence. Mr. Clemson submitted exhibit A-2 and stated that the barn is to be 48' x 96' in size and contain the horse stalls, tack room, grooming room, bathroom, garage (1200 SF), and storage area as shown in exhibit A-3. Mr. Clemson explained that the front of the barn will be facing the rear of the house and that the house is 378' from Munn Lane while the stable will be 515' from Munn Lane. Mr. Clemson affirmed that you won't be able to see the stable from Munn Lane as it will be block by the house. Additionally, an elevation difference will prevent the top of the stable being seen from the roadway. Mr. Clemson noted that the setback requirement for the RA zone is 35' while the proposed house and stable are setback much further. Mr. Clemson posited that it would be more impactful on the neighbors if the house and stable were closer the roadway. Mr. Clemson affirmed that the 2nd floor of the stable is for storage and not habitation. Mr. Clemson stated that that the separate structure for the house and stable add impervious coverage which triggers stormwater management requirements through the Township and the NJDEP. As such, Mr. Clemson noted that the applicant has proposed a low-impact aboveground stormwater basin that is 6,000 SF in size but shallow (2' deep) and will be located behind the stable. Mr. Clemson added that the applicant is also implementing a separate stormwater collection system involving a 3,400 galloon underground tank which will collect rainwater runoff and then be used for irrigation in the pasture. Mr. Clemson stressed that the basin was designed regardless of the stormwater collection system being implemented. Mr. Clemson also noted that the rear portion of the driveway will be a crushed stone with a geo-cellular honeycomb material which will allow for water infiltration.

Mr. Clemson detailed the proposed tree clearing operations and noted that the applicant is permitted to clear trees within 15' of proposed improvement without compensation. After explaining the compensatory/replacement requirements, Mr. Clemson stated that the applicant removed 85 trees as part of the prior tree clearing operations. Of the 85 trees, 17 were removed outside of the clearing zone at the direction of the arborist due to the trees being dead, diseased, dying, or because they were harmed during the tree clearing operations and wouldn't survive. Additionally, 25 of the 85 trees were removed in areas where the future rear driveway, stable, and basin are proposed; for a total of 42 trees. Mr. Clemson stated that the group of 17 and 25 trees (42 total) are addressed in the tree replacement/compensation plan; however, they are proposing 97 new trees (thus exceeding the one-to-one replacement requirement) and adding 176 shrubs in order to enhance the site and create a buffer. Mr. Clemson stated that they will add a water connection detail to the plan as it relates to the connection to the stable. After discussion the applicant agreed to incorporate the Zoning Board Engineer's comments by adding ten (10) additional trees to the plan for a total of 107 new trees. Mr. Noll also noted that the proposed stormwater management system meets the State requirements. Mr. Clemson noted that there are eight (8) more trees that have to be taken down in order to accommodate the proposed basin as there are within its proposed footprint; however, the trees are not within the wetlands buffer. Lastly, Mr. Clemson noted that there are over 4,000 trees on the property and that 1,600 of them are within the uplands.

Mr. Wolfson stated that he intends to maintain horses on the site consisting of 3 mini horses, 2 Shetland horses, and 3 gypsy horses. Mr. Wolfson detailed the manure storage disposal operations. Mr. Wolfson stated the manure will be stored in a metal container at the rear of the stable and that a special company will pick up the container on an as needed basis but most likely on a weekly basis. Mr. Wolfson affirmed that this is not a commercial property and that the horse keeping is for private use only. Mr. Wolfson stated that a caretaker will be hired to help maintain the property and the horses. Mr. Wolfson stated that he will be moving into the property with his family and that the property is farmland assessed. Mr. Hosbach stated that eight (8) cords of wood are managed per year as part of the forestry management plan. Mr. Wolfson noted that he currently has eight (8) horses but can accommodate up to twenty-three (23) horses and still meet the Zoning Ordinance requirements; however, Mr. Wolfson agreed to a cap of fifteen (15) horses.

Mr. Sikora submitted exhibit A-4 to illustrate the proposed landscaping improvement consisting of deciduous and evergreen trees as well as 176 shrubs. Mr. Sikora submitted exhibit A-5 to indicate the location of the 3' tall stone wall along the front of the property which will act as an architectural feature. Mr. Sikora also pointed out the pasture fence and the entrance gate with the associated stone columns. Lastly, Mr. Sikora discussed the proposed colors and materials of the fencing.

Mr. Ragone went through the requested garage variances and noted that the second garage requires a variance as only one (1) garage is permitted per lot; however, the proposed garage will primarily store farm/horse keeping equipment. An additional variance is required to permit a 1,200 SF detached garage where only 800 SF is permitted and to permit a second story on a detached garage where only one (1) story is permitted. Mr. Ragone noted that that the garage cannot

be seen from the street and it would be a hardship to not have a garage as there would be nowhere to store horse keeping equipment. Mr. Ragone added that the second floor of the garage is to just be used for storage and no habitation. Mr. Ragone noted that the Zoning Ordinance does not have provisions for a barn/stable but there is permission for horse keeping. Mr. Ragone opined that the proposed plan advances the purpose of the horse keeping use. Mr. Ragone noted that the proposed fencing in the front yard (5' tall for the pasture fence, 5.25' tall gate, and 5.5' tall stone columns) requires variances as only 3' tall fencing in the front yard is permitted. Mr. Ragone stated that by moving the house back in line with other houses in the area has created a large front yard. If the house was moved up to 35' from the front property line it would be more detrimental to the surrounding neighborhood. Mr. Hoff stated that he agreed to the comments provided in the review letters issued by the Department of Community Development and the Zoning Board Engineer.

Public Comment: Thomas Harding of 107 Munn Lane stated that he is concerned about having a farm/horse operation next door and the possible smells that may emanate from the property.

Stacy Cohen, Esq., an attorney for Winnifred Robinson of 105 Munn Lane noted her client's concern pertaining to the proposed horse keeping operation. Ms. Cohen noted her client wants the operation to restrict horse rehabilitation, boarding, and breeding. Ms. Cohen stated her client is concerned about the visual impacts of the proposed development, particularly the look of the horse fence and the lack of new tree plantings in the front yard even though trees were removed from that area to make room for the pasture. Ms. Cohen detailed her research pertaining to the storage capacity of horses and believes the Zoning Ordinance is not reflective of industry standards. Ms. Cohen noted the Zoning Ordinance requirements for horse keeping per Section 508.F.4 and opined that the landscaping along the front property line is lacking. Ms. Cohen also noted studies concerning the average daily manure generation per horse and the concern about proper manure maintenance. Ms. Robinson gave a brief overview of her property and noted its proximity to the subject site. Ms. Cohen submitted exhibits R-1 and R-2 to note what the subject site looked like from her property prior to the site work and what it looks like now that site work is well underway on the construction of the house. Ms. Cohen stated that her client's main concern is the buffering between her property and the subject site and that they are just requesting more plantings in the front yard. Ms. Cohen noted the proposed fencing materials on the subject site and then requested that Mr. Wolfson further address the maintenance of the horses and the pasture. Mr. Hoff stated the manure maintenance will comply with the Zoning Ordinance provisions. Mr. Wolfson stated that he is keenly sensitive to the issues being raised and that he has hired a team of professionals and outside horse consultants on this particular project to ensure the horse keeping operations will run smoothly and efficiently. Mr. Wolfson gave a detail account of the horse keeping and pasture maintenance operations and believes that all possible nuisances will be mitigated through the technology being implemented as well as by way of the caretaker who will be there on a daily basis. Mr. Hoff stated that the applicant is willing to put in some shade trees along the front yard but that it was intent of the applicant to not block the house. Furthermore, it was noted that the primary horse keeping operation takes place behind the house. Ms. Luciani provided thoughts on interpreting the horse keeping regulations/provisions as it relates to the landscape buffer requirement and a discussion regarding front yard landscaping ensued.

Peggy Speake of 233 Heritage Road provided testimony indicating that she would like the applicant and the neighbor's to come to an agreement on the issues that have been raised and to ensure the neighborhood maintains its unique qualities.

Michael Illich of 128 Edison Road asked if the basin will increase water runoff and Mr. Clemson stated that it would not and that all stormwater will be managed on-site.

Martha Wright of 200 Munn Lane noted that there are eight (8) stalls for potentially up to fifteen (15) horses. Ms. Wright asked about the proposed manure removal operations and specifically, is the manure siphoned out or is the whole container taken. Mr. Hoff stated that the stable/barn can be reconfigured to accommodate up to fifteen (15) horses. Mr. Wolfson stated that the manure container is entirely removed and new container is put in its place. Ms. Wright stated that she is concerned about the loss of trees and that she wants to see twenty (20) more trees as opposed to ten (10) more trees planted in case of further collateral damage. Ms. Wright stated that she believes a three (3') foot tall fence is sufficient to contain horses as opposed to the proposed five (5') foot fence but does support the taller fencing along the Brace Road frontage. Ms. Wright asked where the eight (8) cords of wood would come from and Ms. Luciani clarified the Woodland Management requirements by indicating that the wood is managed by a forester and wood can be managed within the wetlands (per NJDEP); however, the cut wood would need to be replenished.

Patty & Joe Donnelly of 1222 Kay Drive noted their prior experiences living near a horse keeping property and noted that they never experience odor issues even though the new horse owner was not implementing the same advanced measure that the applicant intends to use. Mr. and Mrs. Donnelly also stated that they support the usage of a five (5') tall pasture fence.

Following the closure of the public comment portion of the meeting, Mr. Hoff stated that the five (5') tall fence helps prevent horses from escaping out into the adjacent roadways. Mr. Hoff stated that he doesn't believe the buffering requirements apply to this proposed development. Ms. Luciani stated that the Zoning Ordinance requirements are

conflicting as it related to the applicability of the buffer requirements as the Ordinance only references buffering requirements between non-residential and residential properties. A discussion then ensued about the need to vote buffering matter, possibly as a variance or as an interpretation. Mr. Hoff stated that the applicant agrees to put three (3) of the additional proposed ten (10) trees in the front with the remaining being placed in the side. Mr. Zeller stated that the prior decision's conditions are to be carried over to the present application.

Motion: Following detailed Board Discussion and a review of the application and conditions of approval by Solicitor Zeller, a motion was made by Mr. DiRenzo and seconded by Ms. Rovner, with affirmative votes for approval by Rardin, DiRenzo, Rovner, Potter, Apell, and Spevak for the approval of the Bulk (C) variances and tree removal. Motion carries 6-0.

RESOLUTIONS:

18-Z-0034

Block(s) 528.22 Lot(s) 24
Zone: Residential (R1)

Brian & Vicki Zell
503 Fireside Lane
Cherry Hill, NJ 08003

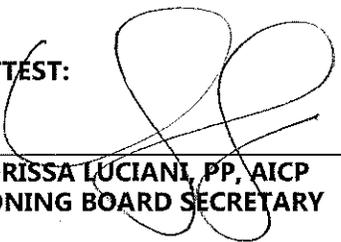
Relief Requested: Bulk (C) Variances to expand the existing one (1) car garage into a two (2) car garage requiring side yard and aggregate side yard setback relief. The garage expansion is proposed to be 5' x 22' (110 SF). The applicant also proposes various driveway and drainage improvements.

Motion to Ratify: Following the review of the resolution, Mr. DiRenzo made a motion which was seconded by Mr. Potter, to memorialize the resolution for Brian & Vicki Zell. Affirmative votes by Rardin, DiRenzo, Apell, Potter, and Spevak. The resolution is memorialized.

Meeting Adjourned: at 11:26 PM.

ADOPTED: 12/20/18

ATTEST:



LORISSA LUCIANI, PP, AICP
ZONING BOARD SECRETARY


JONATHAN RARDIN, CHAIRMAN
DANIEL V. DiRENZO JR.

