

December 11, 2020

Kristie Dickert, Administrative Officer
Zoning Board of Adjustment
Neptune Township
P.O. Box 1125
Neptune, NJ 07754-1125

Re: Best Car Detailing (ZB#20/05)
1824 Columbus Avenue
Block 617, Lot 39
Use Variance, Bulk Variance, Prelim & Final
Major Subdivision and Site Plan
Our File: NTBA 20-05

Dear Ms. Dickert:

Our office has received and reviewed materials for an application for use variance, bulk variance, preliminary and final major subdivision and preliminary and final major site plan approval in conjunction with the above referenced project and report as follows:

1. Submitted Documents:

- A. The Best Subdivision Preliminary & Final Major Site Plan and Subdivision, consisting of 12 sheets, prepared by Daniel W. Caruso, PE, of Landmark Surveying and Engineering, Inc., dated September 1, 2018, last revised April 17, 2020.
- B. Architectural Plans for The Best, consisting of one (1) sheet, prepared by Architectural Design Associates, dated September 8, 2020.
- C. Architectural Plans for New One-Story House for the Best Subdivision, consisting of one (1) sheet, prepared by Architectural Design Associates, dated September 8, 2020.
- D. Community Impact Statement, prepared by Allison Coffin, PP, AICP, of James W. Higgins Associates, dated February 19, 2020.
- E. Traffic Statement for 1824 Columbus Avenue, prepared by John H. Rea, PE, and Scott T. Kennel, of McDonough & Rea Associates, Inc., October 8, 2019.

- F. Environmental Impact Statement, prepared by Daniel W. Caruso, PE, of Landmark Surveying and Engineering, Inc, dated October 1, 2018.
- G. Stormwater Management Calculations for Proposed Subdivision, prepared by Daniel W. Caruso, PE, of Landmark Surveying & Engineering, Inc., dated September 11, 2018.
- H. Boundary + Topography Survey, consisting of one (1) sheet, prepare by Zenon T. Grybowski, PLS, PP, of Landmark Surveying and Engineering, LLC, May 26,2018 last revised on April 4, 2019.
- I. Wetlands & NJDEP Permitting at 432 Highway 35 North Letter from Nancy A. Makofka, PWS, of Makofka Environmental Consulting, LLC, dated July 27, 2018.

2. Site Analysis and Project Description

- A. The subject application consists of a 78,595.08 sq. ft., irregular shaped parcel, located at the southeast corner of N.J.S.H. Route 35 and Columbus Avenue in the B-1 Town Commercial Zone District. The site is currently developed with the Best Auto Reconditioning Center. Areas of wetlands exist throughout the property. Commercial and industrial uses border the property along Route 35 to the north, south, and west. Residential uses are located to the east of the subject property.
- B. The applicant is proposing to subdivide the existing parcel into four (4) separate lots, consisting of three (3) residential lots with frontage on Columbus Avenue and a commercial lot containing The Best Car Detailing, fronting on Route 35 and Columbus Avenue. The area of proposed residential lot 39.02 is 16,871.82 sq. ft., 22,005.73 sq. ft. for proposed lot 39.03, and 24,660.08 sq. ft. for proposed lot 39.04. A 1-story, 3-bedroom home is proposed for each lot. The proposed commercial lot, 39.01, will consist of 15,057.45 sq. ft. The applicant is proposing to demolish the existing 991 sq. ft. building and construct a new 4,000 sq. ft. building for auto detailing and five (5) parking spaces to be accessed from Columbus Avenue. A 10 ft. x 4 ft. monument sign and parking improvements are also proposed for lot 39.01.

3. Zoning and Land Use Planning

The property is situated in the B-1 Town Commercial Zone District. The purpose of the B-1 Zone District is to serve the needs of specific surrounding residential neighborhoods by providing for retail sale and service uses. The need to complement and preserve the character of the surrounding residential neighborhoods is paramount. Permitted uses in the B-1 Zone District include a variety of commercial and offices, as well as senior citizen apartment buildings. Single family homes are not permitted uses in the B-1 Zone District. **As such, a**

d(1) use variance will be required to permit a use which is not allowed in the zone district. Commercial car detailing is not a permitted use in the B-1 Zone District. **The applicant will require d(2) use variance relief to allow for the expansion of the non-conforming use.**

4. Bulk Requirements

- A. The minimum permitted lot width in the B-1 Zone District is 100 ft., whereas the existing lot width of proposed 39.01 is 67.19 ft. along Route 35. **This is an existing non-conformity.**
- B. The minimum permitted lot depth in the B-1 Zone District is 100 ft., whereas the existing lot depth of proposed lot 39.01 is 75.85 ft. **This is an existing non-conformity.**
- C. The minimum improvable area required in the B-1 Zone District is 7,200 sq. ft. and a minimum diameter of circle of 55 ft., whereas the applicant is proposing an improvable area of 1,397.34 sq. ft. and a diameter of circle of 42.18 ft. on proposed lot 39.01. **A variance is required.**
- D. The minimum improvable area required in the B-1 Zone District is 7,200 sq. ft., whereas the applicant is proposing an improvable area of 4,004 sq. ft on proposed lot 39.02. **A variance is required.**
- E. The minimum improvable area required in the B-1 Zone District is 7,200 sq. ft., whereas the applicant is proposing an improvable area of 4,004 sq. ft on proposed lot 39.03. **A variance is required.**
- F. The minimum improvable area required in the B-1 Zone District is 7,200 sq. ft., whereas the applicant is proposing an improvable area of 4,004 sq. ft on proposed lot 39.04. **A variance is required.**

5. Other Zoning Requirements

A. Parking Requirements

Automotive body repair and painting uses require 2 spaces per bay and work area. There appears to be three (3) bays on the proposed building, requiring six (6) parking spaces, whereas five parking spaces are proposed. **A variance is required.**

6. Required Proofs for Variance Relief

A. *D(1) Use Variance*

This application requires a use variance pursuant to N.J.S.A. 40:55D-70.d(1). Testimony is required to demonstrate that the application satisfies the positive and negative criteria of the Municipal Land Use Law for the granting of the use variance relief. To obtain a d(1) use

variance, the Applicant must show that the proposal meets four separate criteria:

1) Positive Criteria

- (a) *That the site is particularly suited to the use.* The Applicant must prove that the site is particularly suited for the proposed use. This requirement sets a high bar, requiring findings that the general welfare is served because the use is particularly fitted to the proposed location of the use. It requires the Applicant to show why the location of the site within the Township is particularly suited for the proposed use despite the underlying zoning, or the unique characteristics of the site that make it particularly appropriate for the proposed use rather than a permitted use.
- (b) *Special Reasons.* The Applicant must prove that special reasons exist for granting the use variance by demonstrating either that there is an unreasonable hardship in not granting the variance, or that the proposed project furthers one or more of the purposes of the Municipal Land Use Law.

2) Negative Criteria

- (a) *The variance will not substantially impair the intent and purpose of the zoning plan and ordinance.* The Applicant must prove that the proposal does not substantially impair the intent of the zoning ordinance or master plan. This criterion comes out of the basic principle that municipalities should make zoning decisions by ordinance rather than by variance, and that the grant of a variance should not represent a complete departure from the enacted policy of the governing body.
- (b) *The variance can be granted without a substantial detriment to the public good.* This requires an evaluation of the impact of the proposed use on surrounding properties and a determination as to whether or not it causes such damage to the character of the neighborhood as to constitute a substantial detriment to the public good.

B. ***D(2) Variance***

A D(2) use variance to permit an expansion of a non-conforming use is required. The applicant must satisfy both the positive and negative criteria to obtain the requested use variance.

- 1) Proving the positive criteria for d(2) variances is set at a lower bar than for a new non-conforming use. Proof should still be proffered that demonstrates the furtherance of a goal of zoning.
- 2) Proving the negative criteria requires evidence that the site can accommodate the expansion of the use without causing a substantial detriment to the public good, nor a substantial impairment the intent and purpose of the zone plan and zoning ordinance.

C. *C Variances*

A number of “c” variances are required. There are two types of c variances with different required proofs.

- 1) Boards may grant a c(1) variance upon proof that a particular property faces hardship due to the shape, topography, or extraordinary and exceptional situation uniquely affecting the specific property.
- 2) Boards may grant a c(2) variance based upon findings that the purposes of zoning enumerated in the MLUL are advanced by the deviation from the ordinance, with the benefits of departing from the standards in the ordinance substantially outweighing any detriment to the public good. The Supreme Court’s ruling in Kaufmann v. Planning Board for Warren Township provides additional guidance on c(2) variances, stating that “the grant of approval must actually benefit the community in that it represents a better zoning alternative for the property. The focus of the c(2) case, then, will be...the characteristics of the land that present an opportunity for improved zoning and planning that will benefit the community.”
- 3) C variances must also show consistency with the negative criteria as well.

7. **Site Plan/Subdivision Review Comments**

- A. The applicant should provide testimony on all required variances and clarify all points where additional information is needed.
- B. The applicant should provide testimony as to the proposed car detailing use, including maximum number of employees, anticipated number of visitors to the site, hours of operation, traffic flow, and refuse disposal.
- C. The applicant should indicate if a refuse enclosure is proposed for Lot 39.01. If so, we recommend the enclosure be constructed of masonry block.
- D. The applicant should provide architectural renderings of the proposed building facades.

- E. The applicant should indicate the total square footage of each proposed building.
- F. The applicant should address the limit and the number of tree removal.
- G. The EIS is missing the Appendix A, Natural Heritage report from NJDEP, regarding potential presence of threatened or endangered species on or near the site.
- H. The NJDEP Letter of Interpretation (LOI) expired in 2012. A new LOI and a permit to conduct regulated activities within isolated wetlands are required.
- I. The Applicant is proposing a 20' R.O.W. (½ width) and a 10' wide easement. We recommend a 25' R.O.W. (½ width) as required by RSIS.
- J. Plans show 9.6% slope to the rear on the residential lots, we calculated this to be 5%. The Applicant's Engineer should clarify this.
- K. Handicap parking stall detail does not match the size shown on the plan.
- L. The Applicant is proposing 12 road opening services for sanitary sewer, water and gas and additional road openings for electric and cable services. We recommend Columbus Avenue to be milled and re-surfaced at the conclusion of this project.
- M. A note should be added to the plan indicating that a "Plot Plan" shall be submitted to the construction/engineering department for permits addressing drainage, grading and stormwater managements proposed for Twp. Engineer's Approvals.

8. Stormwater Management

- A. The project disturbance is 43,540 square feet (0.99 Ac) and proposes 7,257 square feet (0.16 Ac) of new impervious surfaces. Under NJAC 7:8-1.2 (Definitions), Major development – the application does not require compliance with NJDEP Best Management Practices with regard to groundwater recharge and TSS Removal.
- B. The Applicant has designed each individual stormwater management systems to fully handle zero runoff for the 2, 10 and 100-year storms. An underground infiltration system is proposed for each individual house and proposed commercial portion of the site.
- C. The Applicant shall provide a soil boring for each individual system. The boring shall include estimated seasonal highwater table, groundwater, if encountered, and soil recharge rate.
- D. The Applicant shall provide Stormwater Operation and Maintenance Manuals in accordance with NJDEP BMP Standards and Neptune

Township Ordinance Section 528.9 for residential lots and commercial property.

The O & M Manuals should include 11 x 17 maps of the following:

- 1) Grading Plan
- 2) Drainage and Utility Plan
- 3) Construction Details

E. The following notes shall be added to the Grading and Drainage Plan:

- 1) Stormwater management facilities shall be regularly maintained to ensure they function at design capacity and to prevent health hazards associated with debris buildup and stagnant water.
- 2) Responsibility for operation and maintenance of the stormwater facilities, including periodic removal and disposal of accumulated particulate material and debris, shall remain with the owner or owners of the property. Maintenance shall follow the operations maintenance manual approved by the Neptune Township Zoning Board.
- 3) In the event that the facility becomes a danger to public safety or public health, or if it is in need of maintenance, the Owner shall affect such maintenance and repair of the facility in a manner that is approved by the Township Engineer.

9. Conditions of Approval

The following conditions of approval are recommended:

- A. NJDEP – LOI and GP 6
- B. NJDOT
- C. Freehold Soil Conservation District
- D. Monmouth County Planning Board
- E. Tree Removal Permit, if required.
- F. Posting of Performance Guarantees and Inspection Fees
- G. Neptune Township Developer’s Agreement

- H. Payment of Affordable Housing Contribution in accordance with Ordinance Section 1001.
- I. Township of Neptune Sewerage Authority ,if required.
- J. Township Tax Assessor's approval of new lot numbers and street addresses.
- K. Approval and filing of the subdivision "Final Plat"

Please be advised that additional comments may follow upon completion of testimony and/or submission of further revisions by the Applicant.

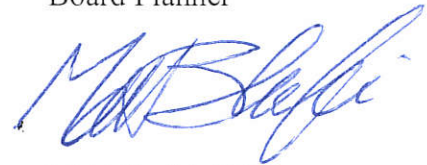
Should you have any questions regarding this matter, please do not hesitate to contact our office.

Very truly yours,

LEON S. AVAKIAN, INC.



Jennifer C. Beahm, P.P.
Board Planner



Matt Shafai, P.E.
Board Engineer

MS:clb/mcs

cc: Leanne Hoffmann, P.E., Director of Engineering & Planning
Monica Kowalski, Esq., Board Attorney
Thomas J. Catley, Esq., Applicant's Attorney (tcatley2@onsitenj.com)