

APPLICANT: 1019 OLD CORLIES ROAD, LLC

APPLICATION NUMBER: ZBA #06-17

BLOCK: 10015

LOT: 2

ADDRESS: 1019 OLD CORLIES ROAD

PROJECT NAME: N/A

ATTORNEY FOR APPLICANT: KENNETH PAPE, ESQ.

RESOLUTION NUMBER: ZBA #07-40



RESOLUTION OF THE ZONING BOARD OF ADJUSTMENT
OF THE TOWNSHIP OF NEPTUNE

MR. FRAN PALADINO offered the following Resolution moved and seconded by MRS. AILEEN IZENBERG:

WHEREAS, 1019 OLD CORLIES ROAD, LLC. hereinafter referred to as the "applicant" filed an application by and through their attorney, KENNETH PAPE, ESQ. with the Zoning Board of Adjustment of the Township of Neptune, (hereinafter referred to as the "Board") seeking the following relief:

A USE VARIANCE TO PERMIT THE USE AND DEVELOPMENT OF THE SUBJECT PROPERTY AS A FULL SERVICE CAR WASH AND AUTOMOBILE LUBE EXPRESS FACILITY AS THIS IS NOT A SPECIFIED PERMITTED USE IN THE C-5 ZONE.

FURTHER, BULK VARIANCE RELIEF IS SOUGHT FOR THREE PRE-EXISTING CONDITIONS AS IDENTIFIED ON THE SITE PLAN WHICH ARE:

- (A) UNDERSIZED LOT – 42,484 SQUARE FEET WHERE 50,000 SQ. FT ARE REQUIRED FOR THE C-5 ZONE.
- (B) LOT FRONTAGE ON OLD CORLIES ROAD OF 196.6 FEET WHERE 200 FEET ARE REQUIRED FOR THE C-5 ZONE; AND
- (C) LOT DEPTH – 214.8 FEET PROVIDED WHERE 250 FEET IS REQUIRED IN THE C-5 ZONE.

ALSO REQUIRED ARE VARIANCES FOR THE FOLLOWING:

- (D) MINIMUM IMPROVABLE AREA – 17,762 SQ. FT. IS PROPOSED WHERE 19,500 SQ. FT. IS REQUIRED.
- (E) PARKING IN THE FRONT YARD SETBACK AREA.

- (F) 6 FOOT HIGH BOARD-ON-BOARD FENCE IN THE SOUTHWEST QUADRANT OF THE SITE. MAXIMUM HEIGHT IN FRONT YARD IS FOUR (4) FEET.

DESIGN WAIVERS ARE SOUGHT FOR THE FOLLOWING:

- (F) SIDEWALK IS NOT PROVIDED ALONG OLD CORLIES AVENUE.
- (G) WAIVER IS REQUIRED UNDER SECTION 509.I.1 WHICH DOES NOT PERMIT PARKING SPACES IN THE FRONT SETBACK AREA.
- (H) PLANS MUST INDICATE THAT THERE IS A SECONDARY FRONT YARD ON THE OLD CORLIES AVENUE SIDE, SAME IS NOT CONSIDERED A REAR YARD.
- (I) A WAIVER IS REQUIRED FOR FOUNDATION PLANTINGS ALONG A PORTION OF THE WEST SIDE OF THE BUILDING AND THE ENTIRE EAST SIDE.
- (J) A WAIVER IS REQUIRED FOR A MINIMUM 10 FOOT SETBACK OF THE PARKING AREA FROM THE WEST SIDE PROPERTY LOINE - 9.6 FEET IS PROVIDED.
- (K) STREET LIGHTING WAIVER FRONTAGE ON OLD CORLIES AVENUE

A summary of the bulk regulations and sign requirements for the C-5 (Commercial) Zone to substantiate the request for the referenced variances is provided below:

ZONING SCHEDULE		
C-5 COMMERCIAL DEVELOPMENT DISTRICT		
CRITERION	REQUIRED	PROPOSED
Min. Lot Area (square feet)	50,000	42,484*
Min. Lot Width (ft)	200	197*
Min. Lot Frontage (ft)	200	196.6* (Old Corlies) 226.9 (Route 33)
Min. Lot Depth (ft)	250	214.8*
Max. Building Coverage (%)	30	13
Max. Lot Coverage (%)	65	63.8
Max. Floor-to-Area Ratio	0.6	0.13
Max. Building Height (Stories)	2	1
Max. Building Height (Feet)	30	<30
Min. Front Setback (ft)	40	55.4 (Rt 33) 78.5 (Old Corlies)
Min. Side Setback (ft; One/Both)	30/60	31/125.5

Min. Rear Setback (ft)	40	N/A
Min. Improvable Area (sq ft)	19,500	17,762*
Min. Buildable Diameter (ft)	91	Applicant to Provide

* Preexisting Condition

ZONING SCHEDULE C-5 COMMERCIAL DEVELOPMENT DISTRICT		
FREESTANDING SIGN TYPE A	PERMITTED	PROPOSED
Maximum Size	24 square feet	24 square feet
Maximum Height	8 feet	8 feet
Maximum Number	One	One
Minimum Setback	5 feet	5 feet
Maximum Horizontal Dimension	8 feet	8 feet
WALL MOUNTED SIGN	PERMITTED	PROPOSED
Maximum Number (Primary)	One	One
Maximum Area (Primary)	48 square feet or 1.2 square feet per 1 linear foot for each of the 2 wall faces, whichever is less	1 @ 41.2 square feet
Maximum Number (Secondary)	One if the business use has a side or rear façade that fronts on a parking lot or faces a secondary street frontage	Applicant to comply
Maximum Area (Secondary)	50 percent of the area of the primary wall sign	Applicant to comply

WHEREAS, the application pertains to premises known and designated as Block 10015, Lots 2 on the Tax Map of the Township of Neptune, which said premises are located at 1019 Old Corlies Road, Township of Neptune, New Jersey (hereinafter referred to as the "premises") and;

WHEREAS, all notice requirements were satisfied by the applicant and the Board has jurisdiction to hear, consider and determine the application at issue; and

WHEREAS, the Board held a public hearing with regard to the referenced application on the following dates: March 7, 2007, May 16, 2007 and July 18, 2007

WHEREAS, the Board, having given due consideration to the exhibits moved into evidence and the testimony presented at said hearing(s), does make the following findings of fact with regard to the Testimony and Exhibits presented:

- 1) The premises are located in a C-5 ZONE.
- 2) Project Description: TO CONSTRUCT AND PERMIT THE USE AND DEVELOPMENT OF THE SUBJECT PROPERTY AS A FULL SERVICE CAR WASH AND AUTOMOBILE LUBE EXPRESS FACILITY IN THE C-5 ZONE.
- 3) Mr. John A. Palus, P.E. under the direction of Kenneth L. Pape, Esq., Attorney for the Applicant, testified as the Engineer for the project. The testimony was set forth as follows:
 - a. The Aerial Exhibit was submitted as A-1.
 - b. The Site Plan Rendering, dated March 7, 2007 was submitted as A-2.
 - c. The property is .9 acres or 42,484 sq. feet located in a C-5 zone, which is Route 33 West Commercial.
 - d. The property is trapezoidal in shape and there is a uniqueness to the property based on its location which is at the triangular portion of the intersection of Old Corlies Avenue and Route 33.
 - e. The topography of the site slopes gradually down primarily to the southeast corner of the property toward Old Corlies Avenue.
 - f. Currently located on the property is single family residence which is a pre-existing, non-conforming use.
 - g. Proposed for the property is a car wash and oil/lube facility.
 - h. The car wash has queuing for approximately 19 vehicles. The lube facility has queuing for approximately 12 vehicles.
 - i. There will be shared office space between the 2 uses with one owner, so the office is shared.
 - j. There are 11 parking spaces for the facility which exceeds the amount required under the ordinance by one space.
 - k. The two driveways on Old Corlies Avenue will be closed and all traffic will be diverted onto Route 33 (Old Corlies Road).
 - l. Since this is a State Highway, a DOT permit is required.
 - m. The location of the driveway is at the crest of the visibility.
 - n. A six foot board on board fence is proposed on the East side of the property with additional fencing at the southwest corner of the property.
 - o. Currently, the drainage at the site is uncontrolled and the site drains to the southeast corner of the property, Old Corlies Avenue toward the residential homes. As a result, there is some soil disturbance and erosion.
 - p. The project proposes to collect all of the impervious coverage on site and collect same through storm water structures and inlets.
 - q. The water will, along with any sheet flow, be collected into a storm collection system.

- r. Since the nearest collection system is 600 feet away to the east near the intersection with Gully Road, they have designed a collection system that runs from Gully Road all the way up to the southeast corner of the subject property and the discharge will be directly into the system.
 - s. There will no longer be any sheet flow coming off the property outside the small vegetative areas on the southeast corners of the property so a dramatic improvement is being made from a storm water management perspective.
 - t. With regard to the water from the carwash, the discharge goes through an oil/water separator. There is also a pit located within the carwash. That is conveyed to a holding tank with an oil/water separator as well. The majority of that water is actually reclaimed and used back in the car wash. The remaining effluent is then discharged into the sanitary sewer, not the storm system, so there is no impact into storm water runoff.
 - u. The landscaping plan has been maximized the buffering to the south and southwest where the residential homes are.
 - v. Decorative Lighting has been suggested on the Route 33 side for public access, along with lighting appropriate to the interior of the site.
 - w. The sign package proposed has been revised to meet the ordinance standards so no variance is necessary.
 - x. As the existing lot does not meet the necessary criteria for the C-5 zone (50,000 sq. ft.) a variance for the pre-existing condition of lot size of 42,484 sq. ft. is necessary as there is no additional land available to purchase.
 - y. Likewise, the lot width is a pre-existing condition that requires a variance on the Old Corlies Avenue side (197 feet where 200 is required) but this does not act as frontage for the project. All activities are concentrated on the North side of the subject property.
 - z. Also, the required lot depth is 250 feet. The existing lot is 214.8 feet deep. However, since this is a trapezoidal lot, the easterly property line is 283 feet deep. This depth is greater than the ordinance requires.
 - aa. The minimum improvable area required is 19,500 sq. feet. Applicant is providing 17,762 sq. ft., again an existing condition.
 - bb. Any development of the lot would face these conditions and the lot cannot be modified to increase any of those conditions.
- 4) Mr. Kenneth Fears, under the direction of Mr. Kenneth L. Pape, Esq., testified as the Traffic Engineer for the Project. The Testimony was set forth as follows;
- a. Design criteria was laid out for the project, such as counterclockwise flow, separation of movement for the lube facility and for the car wash and how stacking could be achieved on site, along with providing a wipe down area, which also acts as a drip area, and the recirculation and the driveway design itself to comply with DOT criteria.

- b. A car wash usually requires stacking for five or six vehicles and during some unusual times of the year more may be required. The design provides for 19 vehicles.
 - c. There was a physical separation between the stacking for the car wash and the stacking for the quick lube. Stacking for the quick lube is a maximum of two vehicles per service bay.
 - d. By removing physical barriers between the two spaces, if there are peak days of the year when the car wash queuing is at a peak, then there are 24 available spaces for stacking. The third aisle shift can serve either facility and acts as additional space for stacking, if necessary.
 - e. However, it is expected that on peak days, the number of cars in the queue would not exceed 15.
 - f. For trip activity, this facility is considered a minor traffic generator with the two sites combined.
 - g. With both facilities operating at their maximum, it is expected that there will be 30 customers per hour. Under the DOT criteria, that is a low intensity traffic generator.
 - h. Typical employment parking at this type of facility is one or two vehicles as people doing this work generally cannot afford the luxury of having a car that would sit there all day long and not be available for their families.
 - i. Therefore, the 11 parking spaces are more than sufficient for the site. Even if there were four to five spaces for employee needs, the balance would be left to customers who typically do not "park" but get in line for service, whether that be lube or wash.
 - j. The driveway at the entrance to the site is at the crest of the hill to maximize the sight distance in both directions.
 - k. In traffic engineering, (other than the sight distance as stated above) this would be considered flat terrain because the grades are sufficiently moderate to achieve that classification.
 - l. Measuring traffic, the road is carrying 1600 to 1800 vehicles per hour in front of the site and at those volumes, coupled with the site volumes, the driveway should operate at approximately 10% of its capacity.
 - m. The three tests for a driveway are adequate site distance, proper geometry and adequate capacity. Mr. Fears stated that all three were met and he expected the site "will work well."
 - n. Mr. Fears testified that he has designed 30 to 40 car washes.
 - o. Mr. Fears testified that Mr. Palus, as the Engineer, was able to incorporate all of his requests in this site.
- 5) Mr. John A. Palus, P.E., under the direction of Kenneth L. Pape, Esq., testified on recall at the second meeting held on May 16, 2007. The testimony was as follows:
- a. The previous testimony indicated that the conveyor car wash was 3600 square feet.
 - b. Upon review, it was determined that the building was larger than necessary for the equipment and the building was reduced or "shortened"

by 20 feet in length. It is further away from Old Corlies Avenue and the residences.

- c. The 20 feet is coming off the back of the building.
 - d. That provides for some additional stacking of vehicles entering the conveyor and the building is now approximately 2,880 sq. ft.
 - e. They are also providing an on-site water detention system which will discharge to the Old Corlies Avenue right of way. The Applicant has accepted to extend the storm sewer collection system from Gully road all the way up the north side of Old Corlies Avenue to the subject site to discharge directly which will mitigate and eliminate any issue of soil erosion.
 - f. Approximately 619 linear feet of pipe will be installed.
 - g. The County indicated that this installation shall be outside of the "cart way". It will be allowed in the right-of-way but outside of the paved area so as not to require ripping up six feet of asphalt in the County right of way. However, they will design and install per any direction given by the County as to how they would like the installation to be accomplished.
 - h. Further, there will only be directional signage on the rear of the building for people to enter either the car wash or lube facility.
 - i. There will also be no access to the property from its "rear" which Applicant considers the Old Corlies Avenue side of the subject property. All access will be from Old Corlies Road or Route 33.
- 6) Mr. Fears was recalled on May 16, 2007 and reiterated his initial testimony.
- a. The Applicant however, has now received a DOT permit.
 - b. Mr. Fears re-visited the site and verified his initial opinion in that there is full, unimpeded sight distance in both directions.
 - c. This is the only driveway within 600 feet which can make that statement. All others are compromised to some extent, by the crest in the road.
 - d. Mr. Fears states that any concerns about safety and accidents on this section of the roadway do not apply to this application because the other points have visibility constraints. This site does not.
- 7) Mr. Pape marks a rendering of the plan as designed by the Architect, Bach and Clark architects, dated December 20, 2006, into the record as Exhibit A-3.
- 8) Mr. Jack Aaronson is proposed as an Expert in Car Wash Operations by Mr. Kenneth L. Pape, Esq. and provides testimony under his direction, after voir dire. Mr. Pape indicates that he will share his years in the industry, discuss facilities Mr. Aaronson owns and operates and has developed some expertise in how to operate a facility while developing knowledge about the right amount of queuing for these facilities;
- a. Testifies that the car wash business is seasonal, mostly in winter months due to the salt, sand and snow. Slowest time is from May to September.

- b. Opines that 20-21 cars for queuing is adequate for peak demands.
 - c. All of his facilities are on active highways with queuing lanes allowing for anywhere from 22 cars to 30 cars.
 - d. All of his property sizes are substantially similar to this, with one being smaller.
 - e. Witness opines that the drying area is the most important part of the whole operation for traffic flow purposes so no one feels pressured to pull out or stop the line inside if there is not enough area to dry.
 - f. Witness opines there is more than enough area here as you can most likely stack 12 cars in front of the wash facility before they really have to go to the exit.
 - g. The geometry of this property is extremely similar to witnesses' Old Bridge facility so he is quite familiar with how same would operate.
 - h. With regard to the vacuuming. The motor of the vacuum is inside the building and the vacuum is hooked up to a hose so it acts as a canister vacuum. So, there is no noise coming out of these vacuums due to their location. The canister baskets are emptied at night. Its all done through air underneath the ground.
 - i. Facilities are open from 8 am to 6 pm at the latest.
 - j. Witness and applicant also advise that the "drying area" will be fortified with heated concrete pads under the entire area of the driveway to help the tires dry, which helps a lot in the winter months.
 - k. Mr. Aaronson testified he was brought in halfway through the design to add his thoughts and comments to the actual design of the car wash and lube facility.
- 9) Mr. James W. Higgins, Professional Planner, under the direction of Kenneth L. Pape, Esq., testified at the second meeting held on May 16, 2007. The testimony was as follows:
- a. Mr. Higgins reviewed all material provided by the Applicant as well as visiting the site. Mr. Higgins further testified that he lives in the area and has extensive knowledge of the area and has testified on other properties in close proximity to this site, so he has a great deal of familiarity with the site itself.
 - b. It is clarified that there is one single family residence on the site but that there is a second small structure on the site which may have acted as an accessory or secondary residence/structure on the site.
 - c. The site is located in the C-5 Zone, the purpose of which is to provide business uses that are appropriate to the Route 33 Highway Corridor.
 - d. There are a variety of uses in that area, including a number of automotive related uses. There are 5 gasoline stations, limousine service and some offices. There is a gasoline station directly adjacent to this site so these automotive related type uses are typical of this section of the roadway.
 - e. The Master Plan designates the site for C-5 and says that C-5 should include uses associated with roadway orientation, such as automotive uses,

- automotive sales and service establishments. This is an automotive service establishment.
- f. So, the first thing Mr. Higgins had to determine was whether or not the site is appropriate for the use and Mr. Higgins testified that the site is particularly suited for the use.
 - g. The site is in an area where there are other automotive uses. The master plan also talks about that this area should have uses that are consistent with other uses in the area and Mr. Higgins testified that this use is consistent with those other uses in the area.
 - h. Mr. Higgins testified that the site is particularly suited because it is designated by the Master Plan as appropriate for the site. It is an automotive service use. Also, it is an area with a number of other automotive related uses. It has frontage on a State Highway, which is primary for a car wash and lube service. It is also located in a commercial zone. This site, as designed is commercial in nature and is screened and cut off from the residential zones that are to the South and to the East of the subject site.
 - i. This application is a benefit because it will eliminate a residential use, which is not permitted in the zone and not similar to any other uses that are permitted in the zone or recommended by the Master Plan.
 - j. The size of the site is clearly appropriate to accommodate the use. The access to the site is appropriate and there would be no substantial detriment to the act of the site or to the area with regard to traffic going to and from the site.
 - k. There are special reasons for the granting of the Use Variance with regard to promoting Municipal Land Use Law with regard to preventing degradation of the environment. The lube operation and the car wash are essential elements to the state-wide policy (DEP) toward reducing non-point source pollution. With this type of facility, there is much less, much reduced spillage of oil as same is contained when serviced, as opposed to someone changing their oil in their driveway at home and dumping same into the storm sewer system.
 - l. Also, the car wash is a contained facility where the water is recycled as opposed to somebody washing their car in their driveway, having detergents run off the driveway into the street and storm sewer.
 - m. With the Applicant's offer to extend the storm sewer, that a substantial benefit to the community which would not be offered but for this use variance application and also constitutes another special reason.
 - n. So, the four special reasons for the granting of the use variance are, particular suitability of the site, elimination of a use that is clearly inconsistent with the ordinance and the Master Plan and replacing same with a use that is definitely more consistent with the Master Plan, the provision of a use that helps eliminate non-point source pollution and there are also the drainage improvements.
 - o. With regard to potential negative impacts, this use is not specifically permitted anywhere else in the Township. The oil change would be

permitted in other zones but a full service car wash is not permitted in any other location, in any other zone in the Township. That adds to the magnitude of the special reasons.

- p. The Master Plan and Ordinance are inconsistent in that the Master Plan designates this area for automotive service use. This type of use was envisioned by the Master Plan. While it might not be specified in the Ordinance, it is a use that is appropriate given the location and size of the site.
- q. One of the purposes of every zoning ordinance is to try to limit conflicts between adjacent land uses. This is not a detriment to the surrounding areas and can also be seen as a benefit because access to Old Corlies Avenue is not provided. That road, at the intersection, can be quite congested. If this site were developed for a permitted use, the strong probability is there would be access to Old Corlies Avenue. All of those uses would have a substantial negative impact upon not only Old Corlies Avenue but upon the residences near the subject site. You would not have the landscape buffering which is currently being offered.
- r. In all, this is not only a benefit to the properties along Old Corlies Avenue but is also a much better use of the site than many permitted uses if the site were developed as zoned.
- s. With regard to the detriment on surrounding properties, what could be built on the site could be more detrimental to the surrounding community, ie...restaurant with liquor license, bar, bank with a drive through, hardware store, which uses would have a much bigger impact on the surrounding area with less buffering and access to Old Corlies Avenue.
- t. Very little traffic occurs on this site in the morning, particularly during the peak hours. (generated by the use) An office use on this site would see more substantial traffic for the site than is currently being proposed.
- u. There is no significant negative impact. The proposed use is consistent with the Master Plan and does not negatively impact the ordinance, nor is it significantly inconsistent with the ordinance. The specific use may not be permitted, but it is a use that is typical of what you would expect on a highway and it is an automotive-related use that is not uncommon. It is not dissimilar to the gasoline stations that are located along Route 33.
- v. There are substantial special reasons without any substantial negative impact.

10) Gregory Clark, Architect, under the direction of Richard E. Tilton, Esq. co-counsel with Kenneth L. Pape, Esq., testified at the third meeting held on July 18, 2007. The testimony was as follows:

- a. The footprint for the building, after tunnel reduction, is now 4,630 sq. ft..
- b. The building is a metal framed metal stud frame wall and metal truss structural system that's clad on the exterior stucco with a separate canopy actually wrapping around the entire four sides of the building.
- c. There will be one sign on Route 33 that is 15 sq. ft. by 2 feet.

- d. Highest point of the building is 20 feet. Remainder of the canopy is 17.2 feet.
- e. The canopy of the rear entrance is to be removed per the Town Planner
- f. Relevant to Old Corlies Avenue, you will not see much of the building, if anything, due to the elevation, fence and landscaping.
- g. HVAC units will be on the roof and the units are high efficiency units so very little noise disturbance from them as that is mitigated by their own internal soundproofing.
- h. The major acoustic signature that's sent off by the car wash is from the blowers at the end of the tunnel.
- i. There is sound deadening at the garage door but there is no way to stop sound coming from out of the doorway. This doorway faces Route 33 and is adjacent to Maggio's Professional Plaza, not the residence next door.
- j. There will also be a 6 foot board on board fence on top of a retaining wall on that side of the structure, with landscaping to provide further buffering.
- k. There is also a five foot berm between Maggio Plaza and the subject property which will handle any runoff from the 2 foot elevation which will exist.

11) Mr. Pape, Attorney for the Applicant, provides a closing statement on the record which is incorporated herein by reference.

12) The Board made certain findings of fact which are as follows:

- a. There is no additional property to purchase.
- b. The site is located in the C-5 Zone, the purpose of which is to provide business uses that are appropriate to the Route 33 Highway Corridor.
- c. There are a variety of uses in that area, including a number of automotive related uses. There are 5 gasoline stations, limousine service and some offices. There is a gasoline station directly adjacent to this site so these automotive related type uses are typical of this section of the roadway.
- d. The Master Plan designates the site for C-5 and says that C-5 should include uses associated with roadway orientation, such as automotive uses, automotive sales and service establishments. This is an automotive service establishment.
- e. The site is particularly suited for this use:
 - i. Mr. Higgins testified that the site is particularly suited because it is designated by the Master Plan as appropriate for the site. It is an automotive service use. Also, it is an area with a number of other automotive related uses. It has frontage on a State Highway, which is primary for a car wash and lube service. It is also located in a commercial zone. This site, as designed is commercial in nature and is screened and cut off from the residential zones that are to the South and to the East of the subject site.
 - ii. This application is a benefit because it will eliminate a residential use, which is not permitted in the zone and not similar to any other

uses that are permitted in the zone or recommended by the Master Plan.

- iii. The size of the site is clearly appropriate to accommodate the use. The access to the site is appropriate and there would be no substantial detriment to the act of the site or to the area with regard to traffic going to and from the site.

- f. The applicant submitted testimony from its Engineer, Architect, Planner, Car Wash Operations Expert and Traffic Engineer in order to satisfy the positive and negative criteria for the application. The Board adopts same as part of their Findings of Fact. They are as follows.
 - i. Positive Criteria: SPECIAL REASONS EXISTS:
 1. Particular suitability of the site as described by the Planner;
 2. Elimination of a use that is clearly inconsistent with the ordinance and the Master Plan and replacing same with a use that is definitely more consistent with the Master Plan;
 3. The provision of a use that helps eliminate non-point source pollution;
 4. Drainage improvements.

 - ii. Negative Criteria: Applicant demonstrated that the requested use variance would not act as a detriment to the public good. With regard to potential negative impacts, this use is not specifically permitted anywhere else in the Township. The oil change would be permitted in other zones but a full service car wash is not permitted in any other location, in any other zone in the Township. That adds to the magnitude of the special reasons.
 1. The Master Plan and Ordinance are inconsistent in that the Master Plan designates this area for automotive service use. This type of use was envisioned by the Master Plan. While it might not be specified in the Ordinance, it is a use that is appropriate given the location and size of the site.
 2. One of the purposes of every zoning ordinance is to try to limit conflicts between adjacent land uses. This is not a detriment to the surrounding areas and can also be seen as a benefit because access to Old Corlies Avenue is not provided. That road, at the intersection, can be quite congested. If this site were developed for a permitted use, the strong probability is there would be access to Old Corlies Avenue. You would not have the landscape buffering which is currently being offered.
 3. In all, this is not only a benefit to the properties along Old Corlies Avenue but is also a much better use of the site than many permitted uses if the site were developed as zoned.
 4. Very little traffic occurs on this site in the morning, particularly during the peak rush hours for traffic. (generated

by the use) An office use on this site would see more substantial traffic for the site than is currently being proposed.

5. There is no significant negative impact. The proposed use is consistent with the Master Plan and does not negatively impact the ordinance, nor is it significantly inconsistent with the ordinance. The specific use may not be permitted, but it is a use that is typical of what you would expect on a highway and it is an automotive-related use that is not uncommon. It is not dissimilar to the gasoline stations that are located along Route 33.
 6. There are substantial special reasons without any substantial negative impact.
- g. Applicant established that a hardship exists in meeting the requirements for the zone and that this particular piece of property is more particularly suited for the commercial purpose in a C-5 Zone for Automotive Services. Since this use is in accordance with the Master Plan and does not seriously conflict with the Ordinance, the proposed use would be in accordance with the MLUL and advance the purposes of the Master Plan in Neptune Township.
- h. The Board specifically notes that there is single family home on the property of some age which may or may not be of historical importance to the Township. However, any historic value attributed to the home in question does not impact the application as presented. The Zoning Board is charged with a duty to uphold the Ordinances and Master Plan of the Township of Neptune. This site is zoned as a C-5 zone, or commercial zone, suitable for an automotive use pursuant to the Master Plan. While the Board is sympathetic to members of the Public in their request to save what some consider to be a "historic" site, the Board does not have the authority to re-create the zone in contravention of the Master Plan and the application for the requested relief is proper in light of the current zoning of the property. Citizens are encouraged to take their concerns to the Township Committee regarding current and future zoning issues.
6. Members of the Public testified with respect to this application, as follows:
- a. March 7, 2007 Meeting:
 - i. Testimony of Mr. John A. Palus, P.E.:
 1. Michael Golub
 - ii. Testimony of Kenneth Fears, Traffic consultant:
 1. Sally S. Klapproth
 2. Michael Golub
 3. Joseph Krimko

b. May 16, 2007 Meeting:

i. Testimony of John A. Palus, P.E.

1. Michael Golub
2. Joseph Krimko
3. Declan Welch
4. Dominic Loferdo
5. Jennifer Eldridge
6. Mary Ellen Ludvigsen
7. Donna Gioglio

ii. Testimony of Kenneth Fears, Traffic Consultant:

1. Michael Golub
2. Donna Gioglio
3. Joseph Krimko
4. Jennifer Eldridge
5. Dominic Loferdo

iii. Testimony of Mr. Jack Aaronson, Car Wash Operation Expert

1. Michael Golub
2. Joseph Krimko

iv. Testimony of Mr. James Higgins, Professional Planner;

1. Donna Gioglio
2. Michael Golub
3. Joseph Krimko
4. Jennifer Eldridge

c. July 18, 2007 Meeting:

i. Testimony of Gregory Clark, AIA.

1. Michael Golub
2. Melissa Pyle
3. Bruce Pyle

ii. Testimony of John A. Palus, P.E.

1. Melissa Pyle
2. Claire Freda
3. Pastor Randy Steinman
4. Bruce Pyle

iii. PUBLIC COMMENT PORTION FOR SUMMATION:

1. Michael Golub
2. Melissa Pyle

3. Pastor Randy Steinman
4. Claire Freda
5. Donald Wood
6. Jennifer Eldridge

7. The subject application requires variance relief, pursuant to N.J.S.A. 40:55D-70
8. In order to prevail on an application for a variance, the Municipal Land Use Law (MLUL), N.J.S.A. 40:55D - 70, requires the applicant to establish that the variance can be granted without substantial detriment to the public good and that the granting of the variance does not substantially impair the purpose of the master plan, zone plan and zoning ordinance.

NOW THEREFORE, BE IT RESOLVED, by the Board of Adjustment of the Township of Neptune that it hereby adopts the aforesaid findings of fact and specifically makes the following conclusions:

- (1) Based upon the aforesaid findings of fact, the Board concludes that:
 - i. The applicant has demonstrated that the purposes of the Municipal Land Use Law and the Land Use Ordinances of the Township of Neptune would be advanced by the deviation from the zoning ordinance requirements at issue, and further, that the benefits of any deviation would substantially outweigh any detriment resulting from a grant of the relief requested in the within application.
- (2) Based upon the aforesaid findings of fact, the Board further concludes that the granting of the approval set forth herein will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of the zoning ordinance and the zoning plan of the Township of Neptune.

BE IT FURTHER RESOLVED, by the Board of Adjustment of the Township of Neptune that the following variance(s) be and are hereby granted:

A USE VARIANCE TO PERMIT THE USE AND DEVELOPMENT OF THE SUBJECT PROPERTY AS A FULL SERVICE CAR WASH AND AUTOMOBILE LUBE EXPRESS FACILITY IN THE C-5 ZONE.

FURTHER, BULK VARIANCE RELIEF IS GRANTED FOR THREE PRE-EXISTING CONDITIONS AS IDENTIFIED ON THE SITE PLAN WHICH ARE:

- (A) UNDERSIZED LOT - 42,484 SQUARE FEET WHERE 50,000 SQ. FT ARE REQUIRED FOR THE C-5 ZONE.

- (B) LOT FRONTAGE ON OLD CORLIES ROAD OF 196.6 FEET WHERE 200 FEET ARE REQUIRED FOR THE C-5 ZONE; AND
- (C) LOT DEPTH - 214.8 FEET PROVIDED WHERE 250 FEET IS REQUIRED IN THE C-5 ZONE.

ALSO GRANTED ARE VARIANCES FOR THE FOLLOWING:

- (D) MINIMUM IMPROVABLE AREA - 17,762 SQ. FT. IS PROPOSED WHERE 19,500 SQ. FT. IS REQUIRED.
- (E) PARKING IN THE FRONT YARD SETBACK AREA.
- (F) 6 FOOT HIGH BOARD-ON-BOARD FENCE IN THE SOUTHWEST QUADRANT OF THE SITE. MAXIMUM HEIGHT IN FRONT YARD (OLD CORLIES ROAD (ROUTE 33) IS FOUR (4) FEET. ALL REMAINING AREAS TO BE 6 FEET.

DESIGN WAIVERS ARE GRANTED FOR THE FOLLOWING:

- (G) SIDEWALK WAIVER IS GRANTED ALONG OLD CORLIES AVENUE. HOWEVER CURBING IS A REQUIREMENT ALONG OLD CORLIES AVENUE.
- (H) WAIVER IS GRANTED UNDER SECTION 509.1.1 WHICH DOES NOT PERMIT PARKING SPACES IN THE FRONT SETBACK AREA.
- (I) PLANS MUST INDICATE THAT THERE IS A SECONDARY FRONT YARD ON THE OLD CORLIES AVENUE SIDE, SAME IS NOT CONSIDERED A REAR YARD.
- (J) A WAIVER IS GRANTED FOR FOUNDATION PLANTINGS ALONG A PORTION OF THE WEST SIDE OF THE BUILDING AND THE ENTIRE EAST SIDE.
- (K) A WAIVER IS REQUIRED FOR A MINIMUM 10 FOOT SETBACK OF THE PARKING AREA FROM THE WEST SIDE PROPERTY LINE - 9.6 FEET IS PROVIDED.
- (L) STREET LIGHTING WAIVER FRONTAGE ON OLD CORLIES AVENUE IS GRANTED

ADDITIONAL CONDITIONS:

ALL APPROVALS GRANTED HEREIN ARE SUBJECT TO THE FOLLOWING CONDITIONS:

- (1) The applicant shall comply with any requirements established by, and obtain any necessary approvals of the following, if applicable, to the proposed construction herein:
- a. FIRE MARSHALL
 - b. TOWNSHIP ENGINEER
 - c. BOARD OF ADJUSTMENT PLANNER
 - d. BOARD OF ADJUSTMENT ENGINEER;
 - e. MONMOUTH COUNTY PLANNING BOARD
 - f. NJDEP APPROVALS, WHERE APPLICABLE
 - g. NEW JERSEY DEPARTMENT OF TRANSPORTATION
 - h. MONMOUTH COUNTY SOIL CONSERVATION DISTRICT
 - i. DEVELOPER'S AGREEMENT
 - j. POSTING AND PERFORMANCE OF INSPECTION FEES
 - k. APPROVAL OF WATER AND SEWER UTILITIES AT MUNICIPAL AND COUNTY LEVELS
 - l. TREE REMOVAL PERMIT FROM THE TOWNSHIP CONSERVATION OFFICER,
 - m. SUBJECT TO ANY APPLICABLE CONTRIBUTION TO THE COUNCIL ON AFFORDABLE HOUSING AS SET FORTH BY ORDINANCE 1001, AS AMENDED;
 - n. SUBJECT TO THE APPLICANT COMPLYING WITH ANY AND ALL FEDERAL, STATE, COUNTY AND LOCAL LAWS, RULES AND REGULATIONS AFFECTING AND PERTAINING TO THE DEVELOPMENT OR USE OF THE SITE IN QUESTION
 - o. SUBJECT TO ALL REPRESENTATIONS AND TESTIMONY OF THE APPLICANT BEING TRUTHFUL AND ACCURATE
 - p. SUBJECT TO ALL CONDITIONS AS SET FORTH ON THE RECORD AND AS OUTLINED BELOW:
 - i. REAR CANOPY ON BUILDING TO BE REMOVED PER TESTIMONY AND REVISED DRAWINGS TO BE

PROVIDED TO BOARD PROFESSIONALS (PLANNER
AND ENGINEER) FOR REVIEW AND APPROVAL
PRIOR TO PERMITTING.

- ii. CURBING MUST BE INSTALLED ON OLD CORLIES
AVENUE SIDE OF PROPERTY.

ROLL CALL VOTE:

THOSE IN FAVOR: James Gilligan, Aileen Izenberg, Francis Paladino, Thomas Healy
Chairwoman Robin Price

THOSE OPPOSED: Charles De Maria, Roger Eichenour

ABSENT: Joe Sears

ABSTAINED: Dianna Harris

MEMORIALIZATION VOTE:

THOSE IN FAVOR: James Gilligan, Aileen Izenberg, Thomas Healy, Chairwoman
Robin Price


THOSE OPPOSED: None

ABSENT: Francis Paladino

ABSTAINED: None

I hereby certify that the foregoing is a true copy of the Resolution adopted by the Zoning Board of Adjustment of the Township of Neptune at its meeting on July 18th, 2007 and memorialized at the meeting held on September 25th, 2007.

Date: September 21st, 2007


ROSE C. HAVEY
Administrative Officer of the
Zoning Board of Adjustment.
Township of Neptune.