

APPLICANT: SURYA REALTY
APPLICATION NUMBER: ZB20/08
BLOCK: 1122
LOTS: 3
ADDRESS: 1800 CORLIES AVENUE, NEPTUNE
ATTORNEY FOR APPLICANT: DONNA JENNINGS, ESQ.
RESOLUTION NUMBER: ZBA#20-19



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

MS. FRANCES KEEL, offered the following Resolution moved and seconded by **DR. JAMES BROWN**:

WHEREAS, SURYA REALTY, hereinafter referred to as the "Applicant", by and through their attorney, **DONNA JENNINGS, ESQ.**, filed an application with the Zoning Board of Adjustment of the Township of Neptune, (hereinafter referred to as the "Board") seeking the following relief:

Relief for an accessory automobile prepare and service business at an existing gasoline service station located at 1800 Corlies Avenue and identified on the Neptune Township Tax Maps as Lot 3, Block 1122 (the "Premises"). The Premises is located in the B-1, Town Commercial District which does not permit gasoline service stations and accessory automobile repair. Specifically, the undersigned seeks the following relief:

1. A use variance pursuant to Ordinance Section 404.01(6) to permit accessory automobile repair to operate on the Premises in conjunction with the existing gasoline service station.
2. Such other relief as may be required, including design waivers or variances deemed necessary by the Zoning Board of Adjustment or its professionals during review of the application.

WHEREAS, the application pertains to premises known and designated as Block 1122, Lot 3 on the Tax Map of the Township of Neptune, which said premises are located at 1800 Corlies Avenue, Township of Neptune, New Jersey;

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 date: August 5, 2020 (cancelled), September 2, 2020 (adjourned during hearing and carried); November 4, 2020;

WHEREAS, the following items were entered as Exhibits at the hearing along with all supporting documents as posted on the Township Website for the hearing:

1. **A-1: Colorized Tax Map with Surrounding Uses**
2. **A-2: Existing Aerial**
3. **A-3: Color Photo Existing Site 1800 Corlies Avenue**
4. **A-4: Color Photo Existing Site 1800 Corlies Avenue Alt. Angle**
5. **A-5: Color Photo Existing Site 1800 Corlies Avenue Vacant Structure**
6. **A-6: Color Photo 1812 Corlies Avenue**
7. **A-7: Color Photo 1820 Corlies Avenue**
8. **A-8: Color Photo 1805 Corlies Avenue**
9. **A-9: Color Photo 1809 Corlies Avenue**
10. **A-10: Color Photo 1825 Corlies Avenue**
11. **A-11: Aerial of Existing Auto Repair and Gasoline Service Stations Surrounding Area**

WHEREAS, The Board listened to the Testimony of the following:

1. **DARLYN SANTOS, PROPOSED OPERATOR**
2. **ANDREW JANIW, PROFESSIONAL PLANNER**

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:

1. The proposed operator, Darlyn Santos, has managed a repair shop in South Amboy that has 3 bays and 3 employees since 2017. The shop's hours run Monday through Friday from 9am-6pm and Saturday 9am to 4pm.
2. The owner of the subject property is Mr. Santos' landlord in South Amboy. The owner wishes to rent the property to Mr. Santos the proper use variance is obtained.
3. Darlyn Santos advises, and the Board accepts, that he has been inside the building with 2 bays. Mr. Santos' proposed business model indicates there would be 2 employees working. Mr. Santos indicates that the types of mechanical repairs on the premises would be oil changes, tire rotations, and tire changes. There would be no auto body work done. Mercury Recovery Oil would come to the subject property one time a week and pick up the discarded oil from outside. The tires would only be installed on property, they would have to purchase them elsewhere. There will be no retail sale of goods from the auto shop. Further, there will be only fixed cars at the shop. No car will be put into storage or held on site. The maximum length of time a car will be on property is for 2 days.
4. Mr. Santos testified there would be 2 cars per bay per each day of the week. There will be 24 total cars serviced throughout the week and 26 deliveries to the shop.
5. The oil tank for recovery oil was proposed to be located at the rear of the building.
6. Applicants advises that this proposed use would upgrade the commercial vitality of the area appropriately with fuel sales and service. There are a large number of apartments that are around the area that were there in 1990 when the gas station was installed. Applicant advises that revitalization of the auto shop would make the use of the property less intense than it would be with a convenience store (which use was granted by prior variance but never constructed).

7. There are other gas stations in this corridor. Applicant is not seeking to change the **infrastructure of the current building but will look for improvement plans. The structure, as is, is exactly what they are looking for in an auto shop.**
8. Applicant testifies that the area is particularly suited and can be reconciled with no negative criteria. Noise and traffic have been historically accommodated. Site would be able to operate efficiently as it has historically and requests the proposed variance
9. Board Planner Beahm disagrees with the testimony set forth by Applicant and Applicant's planner. Ms. Beahm notes that 1990 was 30 years ago and the use of the land for auto repair was deliberately removed by the Township Committee. It is no longer considered consistent with the fabric or character of the neighborhood. Ms. Beahm also disputes the claim that the shop is move-in ready stating that it needs significant improvement and is an eyesore to the public.
10. There is discussion with the Board as to the abandonment of the prior use (auto repair) in favor of the application and grant of use as a convenience store (unconstructed) and how the law does not favor a return to a prior use, once abandoned which use is no longer compatible with the current zoning particularly in the downtown business district. The change indicates a desire by the governing body to step away from that use in this area.

WHEREAS The Public Session provided Public Questions/Commentary:

1. **NONE.**

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:

WHEREAS, the subject application requires relief, pursuant to N.J.S.A. 40:55D.

WHEREAS, 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:

- a. Based upon the aforesaid findings of fact, the Board concludes that:
 - i. The applicant has NOT 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, HAS NOT DEMONSTRATED that the benefits of any deviation would substantially outweigh any detriment resulting from a grant of the relief requested in the within application.
- b. Based upon the aforesaid findings of fact, the Board further concludes that the granting of the approval set forth herein WILL cause substantial detriment to the public good and WILL substantially impair the intent and purpose of the zoning ordinance and the zoning plan of the Township of Neptune.

- c. The Board specifically includes herein by reference, the Transcripts from the hearings, which provide the detailed basis and description of the decision as memorialized in this Resolution and do hereby rely upon same for further reference, as necessary.

BE IT FURTHER RESOLVED, by the Board of Adjustment of the Township of Neptune that the following be and are hereby **DENIED**:

Applicant **IS DENIED** approval for a variance relief for an accessory automobile repair and service business at 1800 Corlies Avenue and identified on the Neptune Township Tax Maps as Lot 3, Block 1122 (the "Premises"). The Premises is located in the B-1, Town Commercial District which does not permit gasoline service stations and accessory automobile repair.

ROLL CALL VOTE: Offered by: Frances Keel Seconded by: Dr. James Brown

THOSE IN FAVOR: Barbara Bascom, Dr. James Brown, Frances Keel, Naomi Riley, Michael Pullano, Ashley Vidal, William Frantz

THOSE OPPOSED: None.

ABSENT: James Gilligan, Thomas Healy, and Paul Dunlap

ABSTAINED: None.

MEMORIALIZATION VOTE: Offered by: Michael Pullano Seconded by: William Frantz

THOSE IN FAVOR: Barbara Bascom, Frances Keel, Naomi Riley, Michael Pullano, and William Frantz

THOSE OPPOSED: None.

ABSENT: Dr. James Brown and Ashley Vidal

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 November 4, 2020 and memorialized at the meeting held on December 2, 2020.

Date: January 21, 2021



Kristie Dickert, Administrative Officer of the
Zoning Board of Adjustment
Township of Neptune