

REGULAR MEETING OF THE EATONTOWN ZONING BOARD OF ADJUSTMENT
April 24, 2023 – Regular Meeting

Call to Order

Chairman East called this in-person meeting to order at 7:00 p.m. and announced that the meeting had been advertised in accordance with the Open Public Meetings Act and had been noticed in the Asbury Park Press and the Star Ledger and a copy of the agenda for this meeting has been posted on the bulletin board in Borough Hall, and on the Borough website.

Roll Call

Members Present: Chairman East, Mr. Granata, Mr. Liszanckie, Mr. Anderson, Mr. Gilmore, Ms. Faccone
Absent: Vice-Chair Faust, Mr. Mednick

Also present: Marc Leckstein, Board Attorney, Ed Herrman , Board Engineer, McKinley Mertz, Board Planner and Colleen Matthews, Board Secretary;

Approval of Minutes

Motion is made by Mr. Liszanckie and seconded by Ms. Faccone to accept the minutes of March 13, 2023.

Ayes: Mr. Liszanckie, Ms. Faccone, Ch. East, Mr. Anderson, Mr. Gilmore

Nays: None

Not eligible: VC Faust, Mr. Mednick

Resolutions to be Memorialized

ZB 2022-25

Antonio Goncalves de Oliveira Jr.
30 Victor Place, Block 1605 lot 5

Motion is made by Mr. Liszanckie and seconded by Mr. Anderson to memorialize this resolution.

Ayes: Mr. Liszanckie, Mr. Anderson, Ch. East, Mr. Granata, Mr. Gilmore, Ms. Faccone

Nays: None

Absent: VC Faust, Mr. Mednick

Old Business

ZB 2022-24 DeMarzo, John & Stephanie

6 Taylor Place, Block 401 lot 121

Applicant started replacing front porch without proper approvals. During review, the following existing variances were noted:

1. This property is an existing non-conforming lot, 4819 sf whereas 10,000 sf is required;

2. Existing lot width 50', whereas 75' is required;
3. Principle dwelling existing rear yard setback 27', required 30';
4. Existing building coverage 27%, proposed 29.5%, whereas 25% maximum permitted;
5. Existing front yard impervious coverage 20%, proposed 20%, 15% maximum permitted;
6. Principle dwelling existing side yard setback 5'20", proposed 5'18", required 7'20"
7. Principle dwelling existing front yard setback 17, proposed 10', required 30'

The applicant was asked to return tonight after an amended survey had been submitted to the Zoning Officer in order to calculate percentages of coverage that were discussed during previous meeting and were needed for the concluding of this application.

Motion is made by Mr. Liszanckie and seconded by Ms. Faccone to approve application as discussed.

Ayes: Mr. Liszanckie, Ms. Faccone, Ch. East, Mr. Granata, Mr. Anderson, Mr. Gilmore

Nays: None

Absent: VC Faust, Mr. Mednick

Motion is made by Mr. Liszanckie and seconded by Mr. Granata to memorialize the resolution in this matter.

Ayes: Mr. Liszanckie, Mr. Granata, Ch. East, Mr. Anderson, Mr. Gilmore, Ms. Faccone

Nays: None

Absent: VC Faust, Mr. Mednick.

ZB 2023-03

Silvercar, Inc.

95 Route 36 (Audi Dealership)

Blk 2401 lot 55

Silvercar, Inc. proposes to operate a short term motor vehicle rental business within the existing Audi dealership. Motor vehicle rentals is not a permitted use in the MB zone.

Atty. Leckstein states that the attorney for the applicant has asked that this matter be carried to June 12, 2023 with no new notice. The applicant was advised that there are several applications on the Agenda for that night and they run the risk of not finishing. In the event that this happens, the matter would be concluded on August 14, 2023. The applicant's attorney, Simone Calli, states that she understands and confirms that she wishes to carry this matter.

Motion is made by Mr. Liszanckie and seconded by Mr. Anderson to carry this application to June 12, 2023 with no new notice required. All in favor.

ZB 2023-08

Taylor, Dan & Elizabeth

Certificate of Non-Conformity

1 Franklin Ave., Blk 908 lot 25

Property has been utilized as a 2-family dwelling in the R-10 zone.

Mr. and Mrs. Taylor are sworn in by Mr. Leckstein.

Mrs. Taylor states that they are here requesting a Certificate of Non-Conforming Use, In January she submitted an OPRA request on the property and was told that the Borough has no records stating that this property is a legal two-family residence. Mrs. Taylor states that they have owned the property since 2004. They have received a certificate of continued use at the time of closing. During the past 19 years, there have been six certificates of continued use. There are two utility meters and two bills for all of the utilities. There are tax

assessment bills that show the property as a two-family residence. There have been many improvements made to the property and there have been inspections and permits given by the town. A copy of all is in the Board file. Mrs. Taylor states that her neighbor can vouch that the property has been a two-family for 33 years.

Atty. Leckstein states, for the record, that even though the tax records show that it is a two-family, utilities, et als., show the property as a two family, does not mean that it is a legal two-family. The departments do not necessarily speak with each other and do not confirm all facts. Atty. Leckstein also states that should the Certificate of Non-Conformity not be granted, the next step would be to continue with a use variance.

The Board discusses the proofs and the request for a Certificate of Non-Conformity.

Motion is made by Mr. Gilmore to grant the Certificate of Non-Conformity and seconded by Ms. Faccone.

Ayes: Mr. Gilmore, Ms. Faccone, Ch. East, Mr. Granata, Mr. Liszanckie, Mr. Anderson

Nays: None

Absent: VC Faust, Mr Mednick

ZB 2023-01

Robert Gemignani

2 Hampton Rd., Blk 3304 lot 23

Rear deck setback is 20 ft. where 40 ft. is required; Front yard impervious coverage is 9%, proposed is 15.33% where 12% is permitted.

Mark Steinberg, Esq., states that he represents the applicant in this matter.

Atty. Leckstein marks the following into evidence:

A-1 Application

A-2 Denial

A-3 Boundary and Topographic survey

A-4 Architectural Plans

A-5 Colorized Survey

Atty. Leckstein swears in Mr. Gemignani. The applicant states that he would like to extend the living room, add a two-car garage and have an upstairs bedroom for future use. There are no new variances required; however, the existing rear deck setback is 22.89 ft. (according to survey) . where 40' is required. Applicant is also looking to make the driveway an I-shaped driveway. The applicant states that he has had two cars stolen in the past three years from the driveway. He would like to put his vehicles into a garage. The front yard impervious coverage is discussed.

The Board discusses the application. It is noted that there was no public in attendance that wished to ask a question or make a comment.

Motion is made by Mr. Gilmore and seconded by Mr. Liszanckie to approve the application as discussed.

Ayes: Mr. Gilmore, Mr. Liszanckie, Ch. East, Mr. Granata, Mr. Anderson, Ms. Faccone.

Nays: None

Absent: VC Faust, Mr. Mednick

ZB 2023-02 McDonalds Corp.

18 Route 35, Blk 902 Lots 24 & 25

Preliminary and Final Site Plan – Applicant seeks to install a side-by-side drive-through accessory use

Gordon Gemma, states that he is the attorney for the applicant from the firm of Prime & Tuvel.

Atty. Leckstein marks the following into evidence:

A-1 Application

A-2 Preliminary and Final Site Plan

A-3 Boundary and Topographic Survey

A-4 Traffic Impact and Assessment Study

A-5 Drainage Summary

B-1 Board Engineer's Report

B-2 Board Planner's Report

B-3 Environmental Commission Review Letter

B-4 Shade Tree Commission Review Letter

B-5 Borough Code Official's Comments

B-6 Fire Prevention No Comment

B-7 Historical Commission No Comment

Atty. Gemma reviews that this is an application to replace the current single lane drive-thru lane with a side-by-side dual lane drive thru lane.

Atty. Leckstein swears in the Board Professionals.

Anastasia VanRyckdegroot, Engineer, is accepted as an expert by the Board and is sworn in by Atty. Leckstein. She adds A-6 as aerial photos of the property. The engineer reviews the prior variances that are in place. She also review the side by side drive thru that is the main focus of this application. This is part of a nationwide initiative to make the ordering experience more efficient and easier process as more and more people do not go inside the restaurant to order and eat their meal. There will be two menu boards and then funnel into the existing lane for payment and pick-up.

The handicapped parking is discussed at length and it is agreed upon that the spaces will be moved from the current location to the north side of the building where it is believed to be a safer location.

The parking lot, deliveries, and parking spaces are discussed and the Board professionals ask that the two parallel spaces be removed and landscaping be added to that location. Traffic circulation, garbage collection is discussed. One ev make-ready space will most likely next to the ADA location.

The Board professional letters are reviewed. A bike rack will be added to the site. Left turns are discussed and it is requested that the applicant petition the State Department of Transportation to be able to add a no left turn sign from Highway 35 north to the property. However, if the Department of Transportation denies the request, this will not affect the approval.

Justin Taylor, Traffic Engineer is sworn in by Atty. Leckstein and accepted by the Board. Mr. Taylor reviews the benefits of a dual drive-thru which accounts for 80% of the overall customers.

Planner Matthew Flynn is sworn in by Atty. Leckstein and is accepted as an expert by the Board. Mr. Flynn reviews the variances requested including the conditional use variance.

Chairman East asks if there is any public in attendance that wish to ask a question or make a comment. None heard.

The Board professionals review the application. Time-frame for the make-ready ev space is discussed and the Board Planner states that this make-ready space should be completed when the renovations to the site are complete and it has to be a full station/useable in three years.

Mr. Gilmore makes a motion to approve the application as discussed, seconded by Ms. Faccone.

Ayes: Mr. Gilmore, Ms. Faccone, Ch. East, Mr. Granata, Mr. Liszanckie, Mr. Anderson

Nays: None

Absent: VC Faust, Mr. Mednick

**ZB 2022-28 373 South Holdings, LLC (BB Tents)
373 South Street, Blk 1401 Lot 20.01**

Atty. Leckstein states that it has come to the town's attention that the applicant has applied for a grease trap and the applicant has specifically testified that they would not be preparing food on location. Atty. Leckstein asks the Board if they want him to reach out to the applicant's attorney to ascertain clarification for this request. The Board asked many questions about what was being done on the site. A Board member states that he passed the site and noticed that there was outside propane tank storage on the site, which was never addressed and that there were more trucks and cars on location that were discussed at length during testimony.

Atty. Leckstein states that he has an email sent to him from the Giordano firm that he reads on record asking why the resolution was not heard this evening. Atty. Leckstein calls the attorney that sent the email on the record and asks about the grease trap and the outside storage of propane tanks. The applicant's attorney advised Atty. Leckstein that he would speak to the applicant and get back to him.

Miscellaneous

None

Adjournment

Motion is made by to close the meeting at 9:20 p.m. by Mr. Liszanckie and seconded by Mr. Anderson. All in Favor.

Respectfully Submitted,

Colleen Matthews
Board Secretary