

**FLORENCE TOWNSHIP
ZONING BOARD OF ADJUSTMENT**

RESOLUTION NO. Z.B.-2022-07

Application ZB#2022-01

**RESOLUTION OF MEMORIALIZATION
APPLICATION OF
VICTOR ROBBINS GROUP
USE VARIANCE
DEFERRAL OF SITE PLAN
BLOCK 125, LOT 25
IN THE NC
NEIGHBORHOOD COMMERCIAL ZONE DISTRICT
APPROVAL**

**Decided: February 7, 2022
Resolution Memorialized: March 7, 2022**

WHEREAS, the Victor Robbins Group, has made application to the Florence Township Zoning Board of Adjustment seeking use variance approval with a deferral of site plan review to allow conversion of the existing building and property now used as the base of operations of an infrastructure/road construction company to a light woodworking/manufacturing facility for the design and construction of architectural interiors and fine cabinetry, at property located at 1496 Hornberger Avenue, and known on the official Tax Map of the Township of Florence as Block 125, Lot 25;

WHEREAS, the applicant is the contract purchaser of the subject property;

WHEREAS, the applicant is represented by John Gillespie, Esquire of Parker McCay;

WHEREAS, upon a finding that the applicant had mailed and published proper notices, the Board opened a public hearing on the application at its February 7, 2022 regular meeting;

WHEREAS, the Board granted certain submission waivers based upon the recommendations of the Board Engineer as set forth in his letter of January 24, 2022 and found the application sufficiently complete to be heard;

WHEREAS, the applicant's owner, Robert Schulz, appeared, was sworn, and offered his testimony in support of the application;

WHEREAS, the applicant's planning expert, Samuel Agresta, PE, PP, of Stout and Caldwell, appeared, was sworn, was accepted as an expert in the field of professional planning, and offered his testimony in support of the application;

WHEREAS, the Florence Township Zoning Board of Adjustment has made the following findings of fact and conclusions of law:

Findings of fact:

1. The applicant is the contract purchaser of the subject property, the owner of the property, Keating Realty Group, has consented to the making of this application, and the applicant therefore has standing to bring this application before the Board.
2. The subject property is located at located at 1496 Hornberger Avenue, in the Florence Township Neighborhood Commercial Zone District, and is known on the official Tax Map of the Township of Florence as Block 125, Lot 25;
3. The applicant has submitted proofs of service of notice and proof of publication, and the Board has jurisdiction to hear this application.
4. Application has been made for a use variance pursuant to NJSA 40:55D-70(d)1 from requirements of local ordinances, to allow to allow conversion of the existing building and property now used as the base of operations of an infrastructure/road construction company to a light woodworking/manufacturing facility for the design and construction of architectural interiors and fine cabinetry.
5. Manufacturing uses are not permitted in the NC Zone District, so a use variance is necessary to permit the proposed use.
6. The applicant has lost its current lease at a Hainesport location and has therefore also requested that it be allowed to immediately occupy and use the property

pursuant to the requested use variance, and deferral of site plan review for six to eight months (submission to made not later than October 1, 2022). This deferral is intended to allow the applicant sufficient time to have site plan drawings and other application documents prepared that address the Township's zoning, site plan, stormwater and other performance standards ordinances, as well as the negative criteria applicable to site plans submitted pursuant to use variances in accord with NJSA 40:55D-76(b).

7. This use variance application does not include the two additional lots to the rear of the site (Lot 22.02 upon which is located a cell tower, and Lot 24), which were used by the prior construction company, and which will be also purchased by the applicant. If the applicant seeks to include any part of these lots in its proposed use, additional use variance relief shall be required.
8. The only exterior construction proposed at this time is the addition, on the west side of the building, of a stack for venting of a spray booth used for finishing.
9. The applicant also proposes to renovate the interior of an office trailer located at the rear of the existing building for use as temporary offices during renovation of the principal building's interior, and to locate permanently one storage container at the rear of the building for use as on-site storage.
10. The applicant has submitted the following documents in support of its application
 - a. A completed Township of Florence Land Development Application;
 - b. A completed Township of Florence Variance Application Checklist of Submission Requirements;
 - c. A Township of Florence Tax Collector's Certification that no taxes were due on the subject property at the time of the application;
 - d. A statement of justification for the requested relief submitted with the Land Development Application form.
 - e. A survey plan of the subject property prepared by William J. Robbins, PLS, dated 02/25/2020, which shows the property outbounds and the locations of improvements;
 - f. A series of photographs showing examples of the interiors manufactured by the applicant;

- g. Documents showing removal of finishing wastes by Clean Management Environmental Group, Inc.
 - h. An aerial photograph of the site and surrounding properties; which was introduced and accepted into evidence in the course of the public hearing as Exhibit A-1;
 - i. A series of photographs of the trucks owned by the applicant which are used for pick-up of raw materials and delivery of finished products, which was introduced and accepted into evidence in the course of the public hearing as Exhibit A-2;
 - j. A photo showing examples of metal products incorporated into the interiors produced by the applicant by subcontractors at other locations, which was introduced and accepted into evidence in the course of the public hearing as Exhibit A-3
 - k. A photo rendering showing conceptual exterior improvements to the existing building, which was introduced and accepted into evidence in the course of the public hearing as Exhibit A-4.
11. The Board's Engineer, Hugh J. Dougherty, P.E., C.M.E. of Pennoni Associates, Inc., Consulting Engineers, submitted a review letter dated January 24, 2022 commenting upon the application, which is hereby incorporated into the record.
12. The Board's Planner, Barbara Fegley, PP, of Environmental Resolutions, Inc., Engineers, Planners, Surveyors, Scientists, submitted a review letter commenting upon the application dated January 27, 2022, which is hereby incorporated into the record. Ms. Fegley also submitted into evidence a photo of the applicant's current location showing a spray booth stack and other exterior features, which was introduced and accepted into evidence in the course of the public hearing as Exhibit B-1.
13. The subject property is located within the Roebling Mill Area in Need of Redevelopment, across Hornberger Avenue from the former steel mill and the light rail station. Several of the adjacent properties are owned by Florence Township.

14. Mr. Schulz testified extensively about the company's operation. It is not a retail business. Typical customers for the high-end, "boutique" interiors designed and produced by the company are corporations and wealthy individuals in New York City, northern New Jersey and "Mainline" Pennsylvania. There are 18-24 employees, which include 8-10 personnel in the office doing engineering, design, project management and administrative work, and the rest of the employees are highly skilled craftspeople. Hours of operation are typically 7:00 am to 5:00 pm and half days on Saturdays, though project deadlines sometimes call for overtime work until 7:00 pm weekdays. In summer, workdays may commence as early as 6:00 am to avoid midday heat. Deliveries of products for installation and drop off of raw materials in by "straight" trucks like the company's own 26 ft. box van or by smaller delivery and panel vans. Tractor trailers are not used for materials coming or going from the company's facility. Woodworking for casework and millwork is done in-house, while metal and stonework are done by off-site subcontractors. Finishing is done in a spray booth, and the quantities of finishing materials used by the company are below NJDEP regulatory and licensing thresholds. Paint and finishing residues are removed by a carrier and properly disposed. No odors are perceptible from the spray booth stack, and no sounds are audible outdoors from the spray booth fans. All machining operations for woodworking such as sawing, sanding, routing and shaping are conducted indoors, so no machine noises from these operations are audible outdoors. The dust collection apparatus serving these machines are located indoors. There will be dumpsters at the rear of the building for solid wastes and recyclable materials which will be removed by a commercial hauler.
15. Mr. Schulz explained that one of the key attractions for the company of this site is its proximity to the light rail station. Presently, 5 to 6 project managers and installers drive to Hamilton Station each day to ride the train to New York City. He expects that these personnel will now be able to take the light rail and change trains in Trenton for New York. The light rail will be a great convenience to the business and its employees as well as helping to attract talent to the company. He

expects that passenger rail access will also facilitate client visits to the company's facility.

16. Only one building-mounted sign is proposed, and it will conform to applicable ordinance standards.
17. Mr. Agresta testified about the relation of the proposed use to surrounding uses and offered his professional opinions as to the positive and negative criteria for the use variance. He testified that the subject property is particularly suited to the proposed use because of most of the non-residential uses permitted in the NC Zone District are satisfied within one mile of the site- so the need for such uses is already satisfied, that the adjacent Township-owned properties provide a buffer for the proposed use from nearby residences, that this light industrial use addresses the call for a balance of uses in the Township Master Plan, and because the proposed use would abate many of the negative externalities of the current pre-existing non-conforming heavy construction use of the property. Mr. Agresta opined that the proposed use would address purposes a, c, i, e and h of the MLUL as set forth in NJSA 40:55D-2. The site's proximity to the light rail station and ability to use that facility regularly for its business operations is also consistent with Township Master Plan goals that seek to use access to the light rail for economic development. Mr. Agresta further testified that because of the lack of negative externalities of the proposed use and the greater compatibility of the use with surrounding uses, as compared to the current use, he sees no substantial detriment to the public good or substantial impairment of the zone plan and ordinance that would result from implementing the proposed use.
18. Public comment was offered on the application by: Robert Fiscor of 290 Norman Ave., whose principal concern was potential odors from the proposed finishing operations. Mr. Schulz assured Mr. Fiscor that there will be no odors emanating from the facility.

Conclusions of Law

The Board finds that special reasons exist for the proposed use variance pursuant to NJSA 40:55D-70(d)1 because the proposed use would abate many of the negative externalities of the current pre-existing non-conforming heavy construction use of the property, would enhance the aesthetics of the site and building, would provide an opportunity for redevelopment in accord with Township Master Plan goals, and can uniquely exploit the site's proximity to the light rail station.

The applicant has also shown that the proposed use variance can be granted without substantial impairment of the zone plan and without substantial detriment to the public good. Because there are many residential uses in the vicinity of the subject property (although it most immediately adjoins Township-owned lands), it is critically important that the use perform in accord with the parameters explained by the applicant's witnesses in the course of the public hearing, and that the promised aesthetic enhancements to the site be implemented through review by the Board of the deferred site plan. The Board finds Mr. Schulz testimony with regard to the nature of the use and the applicant's intentions with regard to implementation of aesthetic improvements to be credible.

For these reasons, the proposed use variance, should be approved, subject to appropriate conditions as set forth below.

Principal among these conditions is the requirement for site plan review. The Board finds it appropriate to make an extraordinary accommodation to the applicant, in light of its difficult circumstance of having lost the lease on its current space, by allowing such site plan review to be deferred to a later date and to nevertheless allow the applicant to occupy the premises and commence business operations prior to approval and implementation of the deferred site plan. But such commencement of business operations prior to site plan approval and implementation must be at risk to the applicant that such a site plan may be denied if it cannot address the negative criteria, or if the surrounding community experiences noises, smells, traffic and the like which are inconsistent with the description of the use provided on behalf of the applicant in its papers and testimony.

NOW, THEREFORE, BE IT RESOLVED by the Florence Township Zoning Board of Adjustment in the County of Burlington and State of New Jersey that the application of the Victor Robbins Group seeking use variance approval with a deferral of site plan review to allow conversion of the existing building and property now used as a the base of operations of an infrastructure/road construction company to a light woodworking/manufacturing facility for the design and construction of architectural interiors and fine cabinetry, at property located at 1496 Hornberger Avenue, and known on the official Tax Map of the Township of Florence as Block 125, Lot 25, and hereby is, **APPROVED**, subject to the following conditions:

1. The Board has relied upon the testimony of the witnesses and factual findings discussed in the body of this Resolution, and such testimony and findings are incorporated as conditions of this approval as though set forth at length herein.
2. The applicant shall be allowed to immediately occupy and use the property pursuant to the use variance granted herein, but any such use shall be at the applicant's risk that a subsequent site plan may not be approved.
3. The interiors of the principal building and temporary office trailer may be renovated to suit the applicant's proposed use.
4. The applicant shall prepare a site plan and supporting application documents and submit them not later than October 1, 2022. This site plan shall address the Township's zoning, site plan, stormwater and other performance standards ordinances, as well as the negative criteria applicable to site plans submitted pursuant to use variances in accord with NJSA 40:55D-76(b). If such a site plan is not submitted timely, or is not approved by the Board, then the use approved herein shall be promptly abated.
5. The heavy equipment, truck tractors and trailers presently on the subject property (Lot 25) and the adjoining properties also used by the former heavy construction use (Lots 24 and 22.01) shall be removed from and cease to operate from all of these properties no later than April 15, 2022.
6. The only exterior construction prior to site plan approval shall be installation of the spray booth stack and installation of a building-mounted sign that is consistent with ordinance standards. Compliance with all federal, state, county and local laws, rules, regulations and any other governmental approvals which may be

required in implementation of this development, including but not limited to: Florence Township Water& Sewer Department, Florence Township Office of Construction Code Enforcement, Burlington County Planning Board and NJDEP. Copies of all applications, permits and certifications related to such approvals shall be filed with this Board. The applicant shall pursue with good faith and due diligence any and all additional approvals as may be required.

7. Any additional development on the subject property or any modification to any development pursuant to, or inconsistent with, this approval shall require approval of this Board.
8. If another governmental agency grants a waiver or variance of a regulation, materially deviating from this approval or the conditions attached to it, then this Board shall have the right to review that issue as it relates to this approval and these conditions and modify or amend the same.
9. Compliance by the applicant with Township ordinances, and State laws and regulations, pertaining to non-residential developers' affordable housing obligations, which are applicable to the subject development.
10. Any permits, deeds, easements, vacations, dedications, revised drawings or other documents related to this proposed development shall be approved by the Board attorney and Board engineer and filed with the appropriate authority.
11. All taxes and escrow fees for professional review must be paid current and in full.
12. Publication of a brief notice of this decision in the official newspaper of the municipality within 10 days of the date hereof.

**MOTION TO APPROVE USE VARIANCE APPLICATION, SUBJECT TO
CONDITIONS:**


Moved by : Mr. Patel
Seconded by : Vice Chair Buddenbaum
In Favor : Mr. Patel, Vice Chair Buddenbaum, Mr. Cartier, Mr. Puccio
Mr. Studzinski, Ms. Sullivan, Chairman Lutz
Opposed : None
Recused : None
Absent : Mr. Sovak

MOTION TO ADOPT RESOLUTION:

Moved by : Mr. Puccio
Seconded by : Mr. Buddenbaum
In Favor : Mr. Puccio, Mr. Buddenbaum, Mr. Cartier, Mr. Patel,
Mr. Studzinski, Ms. Sullivan, Chairman Lutz.
Opposed : None
Abstained : Mr. Sovak
Absent : None

**FLORENCE TOWNSHIP
ZONING BOARD OF ADJUSTMENT**

Dated: 3/02/2022


Larry Lutz, Chairman

CERTIFICATION

BE IT REMEMBERED that the within written Resolution was duly adopted at a regular meeting of the Florence Township Zoning Board of Adjustment held on March 7, 2022 and memorializes a decision taken by the Board on February 7, 2022.

Dated: 3/7/22


Dennis Puccio, Secretary