

**FLORENCE TOWNSHIP
ZONING BOARD OF ADJUSTMENT**

RESOLUTION NO. Z.B.-2022-10

Application ZB#2021-16

**RESOLUTION OF MEMORIALIZATION
APPLICATION OF
ASA INVESTMENT & MANAGEMENT, LLC
AMENDED USE VARIANCE
BLOCK 48, LOT 7
IN THE NC
NEIGHBORHOOD COMMERCIAL ZONE DISTRICT
APPROVAL**

Decided:

June 2, 2022

Resolution Memorialized:

August 1, 2022

WHEREAS, by way of its Resolution 2017-13, the Florence Township Zoning Board of Adjustment granted use variance approval to Miraj Properties, LLC, to allow an existing building with 4-one-bedroom residential apartment units on the first and second floors, and one ground floor storefront, to be converted into a four unit residential apartment building (with 2 two-bedroom units on the first floor, 1 two-bedroom unit on the second floor, 1 two bedroom unit on the third floor, and no commercial space on the first floor), at property located at 18/20 West Front Street, and known on the official Tax Map of the Township of Florence as Block 48, Lot 7;

WHEREAS, by way of its Resolution 2017-09 the Board had previously denied an application by that applicant concerning the subject property that sought elimination of the existing ground level storefront, and 4 expanded and reconfigured apartment units on three floors with a total of 9 bedrooms;

WHEREAS, ASA Investment & Management, LLC, the present owner of the subject property, has brought an application before the Board seeking an Amended Use Variance to allow reconfiguration of the units' interior layouts and the addition of exterior decks and staircases at the rear of the building to provide access from all units to the trash and recycling

containers to be located in the rear yard of the subject property, as well as emergency egress and ingress;

WHEREAS, the Amended Use Variance application does not seek any changes to the previously approved number of units or to the approved per-unit bedroom count;

WHEREAS, the added staircases will in part be located in the required side yard toward the rear of the building and property, but the existing building has no side yard setback at its front, and the proposed setback encroachment will be no closer to the property sideline than most of the building;

WHEREAS, the applicant is the owner of the subject property and therefore has standing to bring this application before the Board;

WHEREAS, the applicant is represented by Dennis Talty, Esquire;

WHEREAS, upon a finding that the applicant had mailed and published proper hearing notices, the Board opened the public hearing on the Amended Use Variance application at its May 2, 2022 regular meeting;

WHEREAS, the Board granted waivers of submission of certain ordinance checklist items as recommended by the Board Engineer and found the application administratively complete;

WHEREAS, the project manager for the applicant's architect, Jacob Wessel of J Design Consultants was sworn and accepted as a fact witness;

WHEREAS, the applicant limited liability company's sole owner Aviram Adi, was sworn and offered his testimony along with the arguments and representations of counsel in support of the application;

WHEREAS, upon the conclusion of the applicant's presentation of its proofs, review of the letters of the Board's professionals, some Board discussion and an opportunity for public comment, the applicant's counsel requested an adjournment of the public hearing to the time and date certain of the Board's June 2, 2022 regular meeting to allow the applicant to submit revised architectural drawings to address some of the issues raised in the course of the May 2, 2022 hearing;

WHEREAS, the Board re-opened the public hearing at its June 2, 2022 regular meeting and reviewed the revised architectural drawings with additional testimony from Mr. Wessel, heard additional testimony from its professionals and provided an additional period for public comment on 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 owner of the subject property, and therefore has standing to bring this application before the Board.
2. The subject property is located at located at 18/20 West Front Street, in the Florence Township Neighborhood Commercial Zone District, and is known on the official Tax Map of the Township of Florence as Block 48, Lot 7;
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 an Amended Use Variance to allow reconfiguration of the units' interior layouts and the addition of exterior decks and staircases at the rear of the building to provide access from all units to the trash and recycling containers to be located in the rear yard of the subject property, as well as emergency egress and ingress.
5. No changes are proposed to the number of units or to the approved per-unit bedroom count as described and approved in the Board's Resolution 2017-13. The application continues to propose a 4-apartment unit building with a total of 8 bedrooms on three floors, and no storefront.

6. Single-family residences and upstairs flats above commercial uses are permitted in the NC Zone District, but multi-family dwelling units are not, so use variance approval is necessary to permit the proposed use. The proposed interior layout changes implicate one of the key considerations of the Board when it first granted use variance approval in 2017; namely access for each unit to the rear yard where recycling and trash containers are to be located. Florence Township's municipal trash and recycling collection takes place from the alley that runs at the rear of the subject property, so this is a significant functional issue for the site.
7. A *de minimus* exception from the Residential Site Improvement Standards, NJAC 5:21-1 et seq., ("RSIS"), was granted by the Board in its 2017 approval. Because there will be no change in the unit or bedroom counts, there will be no change to the number of car parking spaces required under the RSIS standards for the four 2 bedroom apartment units, and the *de minimus* exception previously granted by the Board can remain in effect.
8. The added staircases will in part be located in the required side yard toward the rear of the building and property, but the existing building has no side yard setback at its front, and the proposed setback encroachment will be no closer to the property sideline than most of the building. This bulk variance can be considered as "subsumed" into the use variance under relevant case law.
9. 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 survey plan of the subject property prepared by Harold J. Bozarth, Jr., PLS, dated 11-11-2016, revised 1-2-2017, which shows the property outbounds and the locations of improvements;
 - e. A survey plan of the subject property prepared by Frank A. Intessimoni, PLS, dated 11-16-2021, which shows the property outbounds and the locations of improvements;

- f. A copy of the architectural plans that were part of the Board's 2017 use variance approval, introduced in the course of the Board's May 2, 2022 hearing as Exhibit A-1;
 - g. A copy of the revised architectural plans dated 7-31-2021, introduced in the course of the Board's May 2, 2022 hearing as Exhibit A-2;
 - h. Copies of architectural plan sheets A-100 and A-400, revised through May 12, 2022, introduced in the course of the Board's June 2, 2022 hearing as Exhibit A-3;
 - i. A letter dated March 8, 2022 from the applicant's counsel, Mr. Talty, explaining the application.
10. The Board's Engineer, Hugh J. Dougherty, P.E., C.M.E. of Pennoni Associates, Inc., Consulting Engineers, submitted review letters dated December 21, 2022 and April 4, 2022 commenting upon the application which are hereby incorporated into the record..
11. The Board's Planner, Barbara Fegley, PP, AICP of Environmental Resolutions, Inc., submitted a review letter dated December 20, 2021 commenting upon the application which is hereby incorporated into the record.
12. Brian Richardson, Twp. Fire Code Official, was concerned that the two buildings (#18 and #20) have no means of lateral travel between them and be separated completely by a party wall in order to be in compliance with applicable codes. The applicant's representatives confirmed that this would be the case.
13. No public comment was offered on the application.

Conclusions of Law

The Board finds that the special reasons which underlay its use variance grant in 2017 continue to be valid even in light of the proposed interior layout changes and the addition of the proposed exterior decks and staircases.

Similarly, the applicant has also proven that the proposed amended use variance can be granted without substantial impairment of the zone plan and without substantial detriment to the public good. The additional side yard encroachment for the new staircases is consistent

with the existing pattern of development on the site, so this poses no substantial additional detriment to the public good or zone plan impairment.

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

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 ASA Investment & Management, LLC, seeking an Amended Use Variance to allow reconfiguration of the units' interior layouts and the addition of exterior decks and staircases at the rear of the building to provide access from all units to the trash and recycling containers to be located in the rear yard of the subject property, as well as emergency egress and ingress, be, 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. All findings and conditions set forth in the Board's Resolution 2017-13 not expressly waived or modified by this Resolution shall remain in full force and effect, and the applicant shall comply with each of them.
3. All taxes and escrow fees for professional review must be paid current and in full.
4. 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 APPLICATION:

Moved by : Mr. Cartier
Seconded by : Mr. Buddenbaum
In Favor : Mr. Cartier, Mr. Buddenbaum, Mr. Patel, Mr. Sovak,
Mr. Studszinski, Mr. Minton, Chairman Lutz
Opposed : None
Recused : None
Absent : Mr. Puccio

MOTION TO ADOPT RESOLUTION:

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

**FLORENCE TOWNSHIP
ZONING BOARD OF ADJUSTMENT**


Dated: 8/01/2022


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 August 1, 2022 and memorializes a decision taken by the Board on June 2, 2022.

Dated: 8/1/22


Dennis Puccio, Secretary