

A meeting of the Township of Hamilton Zoning Board of Adjustment was held on the above date with Chairperson, Robert J. Campbell, Sr., presiding. Members present were Charles Cain, Wayne Choyce, Eduardo Freire, Kathi Lentz, Werner Raff, & Frank Tomasello. Alternate present was David Grassi. Also present was Robert Watkins of Mott Associates, Zoning Board Planner; Charles Endicott of Polistina of Polistina Associates, Zoning Board Engineer; Christopher Carey, of Engineering Design Assoc., Zoning Board Landscape Architect Consultant; Michael Fitzgerald, Zoning Board Solicitor; and Steven Maimon, Zoning Officer.

The Statement of Compliance was read.

Approval of Minutes – Mr. Choyce moved, seconded by Ms. Lentz, to approve the minutes of the March 23, 2009 Zoning Board of Adjustment meeting. SAID MOTION CARRIED WITH THOSE MEMBERS VOTING “AYE”, NO “NAY”, ONE “ABSTAIN”.

Gerald R. Davis – Solicitor, Michael Fitzgerald, verified that the proof package has been executed properly and property taxes are current.

Applicants, Gerald & Karen Davis, were present and informed the Board they are requesting a variance to exceed the permitted lot coverage to allow the construction of a 525 square foot, free-standing deck on a parcel containing their existing single family dwelling, located on 70 Monet Drive, Block 1132.09, Lot 5.

Mr. Davis testified that the existing new home itself covers the permitted lot coverage, and the proposed deck would exceed the coverage allowed. He noted he has submitted a complete new survey to the Board, prepared by his engineer, along with a letter stating the proposed deck should not any negative impact on his property or any neighboring parcel. Mr. Davis stated there is an existing large retention pond in the rear of his property.

Mr. Choyce commented that he visited the property site and the drainage pond in the rear runs the length of two or three lots. He stated there is a deck on another home in that area and there will never be any other homes behind the applicant's house in that immediate area. Mr. Choyce noted that at first he had concerns, however, after visiting the site and seeing the layout, my concerns were eased. Mr. Cain commented that when you look at this particular site, I feel the proposed deck should not have any negative impact on this property. Mr. Davis stated that he believes a deck should not cause much additional runoff.

Mr. Campbell, Sr. opened the hearing to public comment, and there was no response. Mr. Raff moved, seconded by Mr. Freire, to close the public portion of the hearing. SAID MOTION CARRIED WITH THOSE MEMBERS VOTING “AYE”, NO “NAY”, NO “ABSTAIN”.

Mr. Freire moved, seconded by Mr. Raff, to grant a Variance to Gerald R. Davis, Block 1132.09, Lot 5, App.# 5-09, to exceed lot coverage to allow the construction of a 21' X 30' (approximately 525 square feet) free-standing deck on a parcel containing an existing single family dwelling, with lot coverage of 40.5% +/- ½%, conditioned upon the applicant obtaining all required building permits.

ROLL CALL VOTE ON THE ABOVE MOTION:

MR. CAIN – AYE

MR. FREIRE – AYE

MR. RAFF – AYE

MR. CHOYCE – AYE

MS. LENTZ – AYE

MR. TOMASELLO – AYE

MR. CAMPBELL, SR. – AYE

SAID MOTION CARRIED.

NOTE: The following Board Members made the following comments regarding their vote on the above motion:

MR. CAIN: Yes, due to the topography of this property.

MR. CHOYCE: Yes, I believe the negative impact is minimal, and I feel this is fitting for the neighborhood and should not cause any concern.

MR. RAFF: Yes, the applicant has demonstrated and provided us with documentation that there will not be any negative impact.

MR. FREIRE: Yes, there is a unique situation with the retention pond, and there is already an existing deck on another property. I feel there should be no negative impact on our zone plan.

MR. CAMPBELL, SR.: Yes, I feel the positive/negative criteria required has been met.

Citta Freedman ReDevelopment, LLC – Solicitor, Michael Fitzgerald, verified that the proof package has been executed properly, and property taxes are current.

Applicants, Ronald Citta & Louis Freedman, were present, as well as their attorney, Michael Blee; Robert Reid, Planner, & Harry Harper, Architect & Planner. Mr. Blee informed the Board that the applicants are seeking a Use Variance and Administrative Review with Waiver of Site Plan requirements, to renovate an existing building for a retail/storage facility, on Block 732, Lots 59, 62, 63, 65, & 75, on 45 Mill Street.

Robert Reid, Planner for the applicants, testified that they purchased the property in 2007, and it consists of 184,000 square feet and was formerly the Wheaton's Plastics site. He stated the applicants have had a very difficult time leasing this building, and they would like a small portion of this site as a retail use. He stated they have been talking to Township officials regarding redevelopment of this property, and they would like to utilize 11% of the building for retail. He noted they have a few tenants who are interested in moving into this building, and the opportunity would be lost without obtaining the necessary approvals.

Mr. Reid presented a future Redevelopment Plan of this area to the Board and reviewed it, noting that it involves 180 acres on that site, and coincides with the recommendations of the Township Master Plan. He stated this area is in the IBP zone, and does not allow retail use. Mr. Reid testified that the applicants propose to renovate the existing 16,500 square foot warehouse building located on a 12.13 acre parcel which would require a use variance to allow it to be used for 13,860 square feet of retail space and 2,640 square feet of storage. He noted the site also contains an existing 106,647 square foot building which will remain as warehouse storage.

Mr. Freire asked what type of retail use are they asking for, and Mr. Reid replied, retail sales of merchandise – a nationally known retailer. Mr. Reid stated that there is an existing brick ground sign and they would like to utilize that, and are proposing another sign, as well. He noted they would like to remove an existing chain-link fence. He stated they are hoping this proposed project will bring activity to the site, and hopefully, lessen any vandalism. Mr. Freire asked about proposed security, and Mr. Reid replied they have not discussed that yet.

Mr. Reid testified that they plan to remove all the existing outdoor pods and store them inside of the existing building, once the retail use comes to our building. He described the area surrounding the site as a mixture of zones and uses, noting numerous commercial/retail establishments exist such as a liquor store, a deli/liquor store, two antique shops, a bar/tavern, etc. He noted the IBP zone allows general business establishments, industrial use, light manufacturing, banks & drive-in banks, health/exercise clubs, offices, hospitals, daycare centers, etc.

Mr. Blee testified as to the “special reasons” to grant this use, noting the significant aesthetic enhancement of the site; public safety by having the site occupied; & consistent with the intent of the Township Master Plan & Zone Plan. Mr. Reid stated that they would be utilizing an existing building with the parking already there. He noted they would restripe the parking lot and provide some additional parking, and will enhance the overall appearance of the building with a new front door facade. He stated it would be a benefit to the community and they would be bringing activity to a now empty building. Mr. Reid commented that 11% retail use to this building will not be a detriment. He noted the site is already developed and feels a waiver of site plan requirements would help this use. He stated they would like to defer landscape improvements for a later date.

Mr. Blee called upon Harry Harper, architect for the applicant, to testify. Mr. Harper stated it is a metal building and he tried to create an entrance with more of a residential kind of look with brick veneer. He noted the rest of the building will pretty much remain the same. He stated they plan to give it a real pleasing effect – with big windows and a real decent looking entrance. He stated the retail portion of the building will be 13, 860 square feet, and the rest will remain as a storage warehouse.

Mr. Campbell, Sr. called upon Robert Watkins, Zoning Board Planner, to testify. He reviewed his memo with the Board, noting that he feels that the retail use the applicant is proposing is not a highly intensive commercial use as a specialty retail shop and feels it would be an asset to this area. He stated they are in agreement with most of Mr. Reed’s comments in regard to the use variance. He testified he observed all of the pods stored outside on the site, and is happy to hear they are proposing to store them inside.

Mr. Watkins suggested revisions to the proposed parking, noting that 209 spaces would eliminate any need for a parking variance. He stated there would be a significant amount of parking for retail, noting that 70 spaces would be needed for retail use. He stated there are some sidewalk and curbs that need to be replaced, noting he provided some photos showing this. He testified that security should be addressed, as well some fencing they mentioned removing. Mr. Watkins stated he feels these items can be addressed administratively and worked out, however, it would be up to the Board.

Mr. Campbell, Sr., called upon Charles Endicott, Zoning Board Engineer & Traffic Consultant, to testify. Mr. Endicott reviewed his memo with the Board. He stated there is an existing nonconforming buffer and existing nonconforming length of the building. He stated that regarding the pod storage, they will be stored inside rather than outside. He stated that traffic circulation and lighting will be discussed, and the ingress & egress should be upgraded. He stated that the trip generation should be discussed as a result of change in use.

Mr. Endicott stated there are 246 existing parking spaces – 228 at the main building and another 18 on the corner lot. He noted he feels the parallel spaces should be eliminated, and a parking variance may become necessary and should be granted. Some discussion ensued regarding truck traffic to the site. Mr. Reid

commented that it would be less than the previous use. Mr. Endicott stated they should focus on the traffic circulation within the site and the emphasis should be on getting around the site, noting he feels there are things they can do to make the circulation better. He stated that regarding signage, he feels it would be appropriate to add additional signage, noting another sign would be appropriate on Old Harding Highway – another ground sign at that entrance. He stated the applicant is not proposing to change any of the lighting; however, we want to make sure that the existing lighting is adequate. He stated they should provide a more detailed plan of the existing lighting. He stated all issues regarding traffic safety have been addressed by the County.

Mr. Campbell, Sr. called upon Chris Carey, Zoning Board Landscape Consultant, to testify. Mr. Carey reviewed his memo with the Board. He stated he visited the property and is very well maintained. He stated that the applicant is proposing some potted plants they feel may be adequate, however, I feel that some pots should be placed in the area they are going to stripe the asphalt. Mr. Reed stated they intend to seal the asphalt and restripe it. Mr. Raff stated that he can verify if the asphalt is in good condition. Mr. Endicott informed the Board that he feels that this proposed use is an appropriate one for this area. Mr. Choyce asked if there is existing water and sewer services to the building and Mr. Reid replied, yes. Mr. Harper was asked about the approximate number of trucks and cars to the site each day. He replied about four panel trucks per day, and maybe one TT truck every other day. He stated they estimate about 100 cars per day on a slow day, and about 200 per day on a busy day at certain times of the year.

Mr. Campbell, Sr. opened the hearing to public comment. Mr. John Aspenberg, a resident residing across the street from the site, was present. He expressed his concern about the traffic on Route 559. He stated that the traffic in this area is a problem at certain times. Mr. Cain commented that this use could possibly generate even more traffic. Mr. Campbell, Sr. stated he, too, is concerned about the traffic in this area.

Ms. Aline Dix was present and questioned the small parking area that could be utilized as employee parking. Mr. Reid replied that he feels that area should not be discounted, and noted there is a paved alley that possibly could be used and there is a driveway that we allow residents to use. He stated it would be good for employee parking.

Mr. Endicott questioned the 18 parking spaces, noting he feels they are really not part of the site. He stated they have plenty of parking on the site and I feel they should be eliminated, along with the parallel parking spaces. He noted this would bring the parking down to 209, and that would be adequate. He stated the main lot is fine.

Ms. Dix encouraged the Board to “get moving” on this Redevelopment and this is a start. With no other public comment, Mr. Raff moved, seconded by Mr. Cain, to close the public portion of the hearing. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE”, NO “NAY”, NO “ABSTAIN”.

Mr. Reed informed the Board that there would be some Pods that will have to be outside at times, for the operation of the facility. Mr. Freire asked if they would be a designated area for them. Mr. Choyce asked how many are we talking about? Mr. Reed stated they would meet with the Board Professionals and work all of that out. Mr. Campbell commented that this site has been blight for a number of years and I think this proposed use looks good.

Mr. Watkins stated he feels the Board can move forward with the Use Variance and the other issues can be worked out. He noted issues such as the

removal of the fence & gates; 209 parking spaces; sidewalk & driveway upgrades; lighting & foot-candle standards; sealing of cracks & restriping of asphalt; additional sign necessary which would require a sign variance; sewer & water lines; landscaping plan, etc. should be able to be worked out. He noted they could meet with Mr. Carey regarding the landscaping.

Mr. Blee stated they would like to request that the Board act this evening and grant them a Use Variance. Mr. Campbell, Sr. stated that with several outstanding issues, we may like to revisit the waiver of site plan requirements to see if these issues can be worked out with the professionals, and then return to the Board.

Mr. Choyce commented that he has a big concern regarding the Pod storage, noting that needs to be nailed down about where a staging area will be and how many will be stored outside. Mr. Endicott agreed.

Mr. Blee stated that in addition to the Use Variance, they would request that the Board could also grant a Variance for an additional sign, no larger in size than the existing sign.

Mr. Raff moved, seconded by Mr. Choyce, to grand a Use Variance to Citta Freedman ReDevelopment, LLC, Block 732, Lots 59, 62, 63, 65, & 75, App.# 6-09, to allow retail sales/storage use & renovation of existing building, as depicted on the submitted plan and testified to this evening, conditioned upon the following: the applicant addressing all of the issues presented by the Zoning Board Professionals and returning to the next Zoning Board of Adjustment meeting on May 11, 2009, for possible approval of other Variances, Waivers, and/or Administrative Review of Site Plan requirements.

ROLL CALL VOTE ON THE ABOVE MOTION:

MR. CAIN – AYE	MR. FREIRE – AYE	MR. RAFF – AYE
MR. CHOYCE – AYE	MS. LENTZ – AYE	MR. TOMASELLO – AYE
		MR. CAMPBELL, SR. – AYE

SAID MOTION CARRIED.

NOTE: The following Board Members made the following comments regarding their vote on the above motion:

MR. CAIN: Yes, I believe the proposed retail use meets the master plan and the impact will have the lesser impact in that area than what could be there.

MR. FREIRE: Yes, I feel the positive outweighs the negative with this use. I feel it will help the site and the surrounding area.

MS. LENTZ: Yes, I feel it would be beneficial to the community and create jobs. I commend our professionals for working with the applicant.

MR. RAFF: Yes, I feel the benefits of this facility outweigh any negatives and outweigh the industrial use that would be permitted.

MR. TOMASELLO: Yes, I feel there would be no negative impact and it would provide a positive effect on the community.

MR. CAMPBELL, SR.: Yes, I feel this would provide a business that will be accepted in Hamilton Township.

Mr. Raff moved, seconded by Mr. Tomasello, to grant a Sign Variance to Citta Freedman ReDevelopment, LLC, Block 732, Lots 59, 62, 63, 65, & 75, App.# 6-09, to allow an additional sign on the site of the proposed retail/storage facility, as testified to this evening.

ROLL CALL VOTE ON THE ABOVE MOTION:

MR. CAIN – AYE	MR. FREIRE – AYE	MR. RAFF – AYE
MR. CHOYCE – AYE	MS. LENTZ – AYE	MR. TOMASELLO – AYE
		MR. CAMPBELL, SR. – AYE

SAID MOTION CARRIED.

NOTE: The following Board Members made the following comments regarding their vote on the above motion:

MR. CHOYCE: I think this additional sign will eliminate confusion and help alleviate safety issues for the customers utilizing the facility.

Mr. Tomasello moved, seconded by Mr. Raff, to continue the application of Citta Freedman ReDevelopment, LLC, to the Zoning Board meeting of May 11, 2009, to address the waivers and approvals requested for administrative review of site plan issues, as requested by the applicant, with the Solicitor confirming that no further notice or publication be required.

ROLL CALL VOTE ON THE ABOVE MOTION:

MR. CAIN – AYE	MR. FREIRE – AYE	MR. RAFF – AYE
MR. CHOYCE – AYE	MS. LENTZ – AYE	MR. TOMASELLO – AYE
		MR. CAMPBELL, SR. - AYE

SAID MOTION CARRIED.

Thomas Caucci, Jr. – Solicitor, Michael Fitzgerald, verified that the proof package has been executed properly, and property taxes are current.

Applicant, Thomas Caucci, Jr., was present, as well as his attorney, Rocco Santora, Esq. Mr. Santora informed the Board that Mr. Caucci was seeking a favorable Interpretation to permit the issuance of a Certificate of Prior Nonconforming Use to allow his existing Landscaping Business to continue to operate on 5893 Pine Street, Block 853, Lot 1.

Mr. Santora stated that there has been a single family home on the property for as long as the property exists. He stated the existing home had been constructed in 1974, and a previously built structure on the property had been converted into an office accessory to the business. Mr. Santora stated in the 1960's it was a chicken farm with sales of fresh poultry, eggs, etc. He stated James DiNatale also sold construction materials, stone, etc. and the buildings on the site were utilized for storage. He stated Mr. Caucci, who operates a landscaping business, purchased the facility in 1983, and there is only one employee on the site as a part-time secretary. He stated Mr. Caucci takes the position that he is entitled to continue the use at this site to continue to operate his business.

Mr. Santora informed the Board that years back Mr. Caucci was ill-advised to go before the Zoning Board to request a use variance, which was granted. However, due to illnesses and the tragic death of his son, he was deterred from proceeding after obtaining his use variance. Mr. Santora stated it is a mom & pop landscaping business and the site has had commercial uses which predate zoning. He noted the original residence was once part of the office

Mr. Caucci testified that he purchased the property in December of 1983 from Patrick Freeney. He informed the Board that the nature of his business is that he is a landscaping contractor and there are no retail sales at the site. He stated he does his estimating of jobs there and he resides in the dwelling on the property. Mr. Caucci stated he has been familiar with the property since he was a child in the early 1950's, and he purchased materials from Mr. DiNatale. He testified that his use of the property has been the same since he bought it, noting he did make some improvements. He stated he used the house in the front as his office. He stated his home was constructed in 1974.

Mr. Campbell, Sr. commented that he is very familiar with that property, noting it was a chicken coop back in the 1950's when Mr. Kiejdan & Mr. Trocki sold eggs, chickens, and chicken coops.

Mr. Santora informed the Board that Mr. Caucci has the blessing of his neighbors, noting they are satisfied with what he has done with the property. He noted all of it is owner-occupied. He stated that recently a fire has damaged his office structure and he would like to repair the damage and restore the building.

Mr. Campbell, Sr. called upon Robert Watkins of Mott Associates, Zoning Board Planner, to comment. Mr. Watkins reviewed his memo with the Board, noting that it was a nonconforming use and if the operation stopped and then restarted back up, it may be required to have a use variance. Mr. Santora stated it was never vacated or abandoned and was always used as a residence and a business there. Mr. Caucci stated, yes, always. Mr. Watkins stated he does believe the agricultural landscaping use was always there and it is permitted. He stated, however, that if a house was built in 1974, then a use variance will not be required. Mr. Watkins stated that an agricultural use is permitted, and those uses predated the Ordinance and are pre-existing, and the home, as well is a pre-existing use.

Mr. Freire stated he visited the site and there is a lot of trash and abandoned vehicles there. He stated there is old equipment and old pots are strewn all over the lot. He expressed his concern about the tidyness of the site, noting it could be improved. Mr. Choyce stated he shares a similar concern and questioned if the vehicles are properly registered. He stated there are other violations that should be brought up to local ordinances and codes.

Mr. Santora informed the Board that they have addressed the property in Municipal Court, noting the pots need to be cleaned up and the site needs to be cleaned up. Mr. Raff commented that he, too, visited the site and when he drove on the site, mud and debris was tracked onto Route 50. He stated he would like the mud addressed. Mr. Caucci informed the Board that he can stone it. Mr. Caucci informed the Board that he would like to restore the burned structure back to his office.

Mr. Maimon, Zoning Officer, commented that the Board could condition the Interpretation upon the applicant cleaning up the property and taking care of the violations. He stated the burned office building should be restored within the existing footprint and utilized as an office building only. Mr. Freire commented that he observed a lot of trash and he would like to see a trash enclosure.

Mr. Campbell, Sr. opened the hearing to public comment and there was no response. Mr. Cain moved, seconded by Mr. Tomasello, to close the public portion of the hearing. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

Mr. Santora assured the Board that there has been no abandonment of the uses on this property.

Mr. Tomasello moved, seconded by Mr. Choyce, to grant a favorable Interpretation and issue a Certificate of Prior Nonconforming Use, to Thomas Caucci, Jr., Block 853, Lot 1, App.# 2-09, to allow an existing Landscaping Business to continue to operate, conditioned upon the following: the applicant may restore the accessory structure used as his office, but only within its prior existing footprint with no expansion permitted; the applicant must address all zoning violations regarding property management issues and provide written verification that the violations have been satisfactorily addressed; all motor vehicles on the property must either be appropriately registered or removed; debris & materials, including the excess planting pots must be removed or appropriately stored; trash & other materials shall be appropriately stored on site and only placed out for removal when appropriate for pick-up; the applicant shall add sufficient crushed stone to the site, in particular the driveway access, in order to avoid tracking of mud onto the public right-of-way; and the applicant shall obtain approvals, if necessary, from any other agencies exercising jurisdiction, as well as obtaining all necessary construction permits from the Township Building Department for the restoration of the office structure.

ROLL CALL VOTE ON THE ABOVE MOTION:

MR. CAIN – AYE	MR. FREIRE – AYE	MR. RAFF – AYE
MR. CHOYCE – AYE	MS. LENTZ – AYE	MR. TOMASELLO – AYE
		MR. CAMPBELL, SR. - AYE

SAID MOTION CARRIED.

NOTE: The following Board Members made the following comments regarding their vote on the above motion:

MR. CAIN: Yes, I do not think the business was abandoned.

MR. CHOYCE: Yes, I feel there was adequate testimony that it was a dual use for over 50 years and there was a house, as well, prior to 1974.

MR. FREIRE: Yes, for the same reasons, however, the site must be properly maintained for you and your neighbors.

MR. TOMASELLO: Yes, I feel the applicant has addressed the issue.

MR. CAMPBELL, SR.: Yes, I remember your property before you had it, and I remember it well. I concur with the other Board Members.

Memorialization of Resolutions – Resolutions prepared by the Solicitor for the following applications were accepted by those Members voting: “AYE”, NO “NAY”, ONE “ABSTAIN”:

Ian & Anne Nelson – Block 750, Lot 3; App.# 3-09
Matthew & Lori Robinson – Block 983, Lot 6; App.# 4-09

Adjournment – Mr. Choyce moved, seconded by Mr. Freire, to adjourn the Zoning Board of Adjustment meeting. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE”, NO “NAY”, NO “ABSTAIN”.

Respectfully submitted,

Jeanne C. deVecchis, Secretary
Zoning Board of Adjustment

This entire meeting was taped. The tapes are on file in the Zoning Office and may be reviewed by interested persons during regular business hours.