

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, Werner Raff, & Agnes Simmons. Alternate present was Frank Tomasello. Also present was Robert J. Campbell, Jr., Esq., Zoning Board Solicitor; Timothy Maguire, Esq., Conflict Solicitor; Marc Shuster of Bach Associates, Zoning Board Planner; Robert Watkins of Mott Associates, Zoning Board Engineer; Richard Fini of Bach Associates, Conflict Engineer; Arnold Garonzik of Litwornia Associates, Zoning Board Traffic Consultant; & Joseph Adamson of J. Adamson & Associates, Zoning Board Landscape Consultant. Also present was Steven Maimon, Zoning Officer.

The Statement of Compliance was read.

Delta Group, LLC (Hamilton Auto Spa) - Chairperson, Robert Campbell, Sr., announced that the application #9-07SP for Delta Group, LLC, Block 1134, Lot 6, scheduled to be heard this evening, has requested that it be rescheduled for the December 8, 2008 Zoning Board meeting, at the request of the applicant. Solicitor, Robert Campbell, verified that the proof package has been executed properly, and marked it as Exhibit A 1. Mr. Christopher Baylinson, attorney for the applicant, was present. Mr. Tomasello moved, seconded by Mr. Choyce, that the above application be rescheduled to the December 8, 2008 Zoning Board meeting. SAID MOTING CARRIED WITH ALL "AYE" VOTES.

Approval of Minutes – Mr. Raff moved, seconded by Mr. Tomasello, to approve the minutes of the October 27, 2008 Zoning Board of Adjustment meeting. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

Cheryl Summonte – Solicitor, Robert J. Campbell, Jr., verified that the proof package has been executed properly, and marked it as Exhibit A 1.

Applicant, Cheryl Summonte, was present, as well as her attorney, Jeffrey Sutherland, Esq. Mr. Sutherland informed the Board that back in 1982 the Zoning Board granted the Summonte's variances to construct a single family dwelling on Block 981, Lot 34.02 on 357 Old River Road in a GA-L zone. He noted the variances have since expired, and the applicant is back before the Board this evening requesting the same consideration – variances for lot area, lot frontage, to construct a home on a parcel not fronting a paved street.

Mr. Sutherland stated that the Summontes started to move forward with some of the work. He stated they put in a septic system, however, the NJDEP then imposed Coastal Bluff & wetlands buffer restrictions upon the parcel. Mr. Summonte then passed away.

Mrs. Summonte informed the Board that upon the death of her husband, the property was transferred to their family partnership, C.J. Financial Associates, LTD, of which she is a principal. She testified they started the process in 2002, and in 2005, they met with Mr. Karl Braun with NJDEP, noting they came to an agreement about where the house could be placed on the property. She stated she is very limited as to where she can put the house. Mr. Sutherland discussed the map and indicated where the house can be placed. Solicitor, Robert Campbell, marked the survey map as Exhibit A 2.

Mrs. Summonte testified that the home is for herself, noting that her mother and stepfather live nearby, and she would like to have a place to stay when she comes up from Florida. She stated the Capone family own lot 33 and they plan to build a new home. She stated they share the easement. She informed the Board that she has tried to reach out to them regarding the upgrading plan and maintaining of the easement, however, they have not responded. She noted she has telephoned them and even gone to their place of business, however, I have not received any contact back from them about addressing the access road.

Mrs. Summonte testified that in 1990 they installed a septic system on the site, however, that would now have to be modified. She stated there are no other structures on the property. She stated she has her permit from the State to construct a home, and the Court granted a 30' side easement. She noted her father and stepmother reside at 350 Old River Road. Mr. Choyce commented that the applicant's drawing shows the coastal bluff and they cannot be more than 5 feet, noting there is very little room for a very large house. Mrs. Summonte stated the house and proposed septic system are laid out the way the DEP wanted it.

Mr. Campbell, Sr. called upon Robert Watkins, Zoning Board Engineer, to testify. Mr. Watkins reviewed his memo with the Board, noting that two variances are required – lot area and lot frontage. He stated they looked at this application from an engineering aspect, however, were unaware that an adjacent owner would be involved with the driveway easement. Some discussion ensued regarding the improvement and maintenance of the road. Mr. Watkins stated that the Planning Board is reviewing road improvement requirements and they may be changing down the road, and questioned if the applicant would be agreeable to what is eventually approved. Mr. Sutherland stated they would like to work together with the adjacent owner to improve the road, noting she has already reached out to the Capone's, the adjacent owner. Mr. Watkins stated the road should be a minimum of 20 feet wide to allow for emergency vehicles, with a 6 inch thick base. Mr. Campbell commented that the permit extension act should allow the variance to be valid until 2010.

Mrs. Summonte testified that they received a variance from the Zoning Board back in 1982, but were unable to move forward financially, and then her husband became ill and later passed away. He stated they were proposing a larger house back then because they could come closer to the River at that time.

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

Mr. Sutherland commented that the applicant is requesting C-1 (hardship) variances for lot area, lot frontage, to allow the construction of a single family home on a parcel without street frontage. He stated the applicant agrees to comply with conditions #2; 3; & 4 of the Zoning Board Engineer's report.

Mr. Freire moved, seconded by Ms. Simmons, to grant Variances to Cheryl Summonte, Block 981, Lot 34.02, App.# 17-08, to allow the construction of a single family dwelling on a parcel which does not abut a paved road, as follows: variance for lot area of 0.4 acre where one acre is required; variance for lot frontage of 0.0 where 100' is required; & variance to allow the home to be built on lot which does not front a paved road; to allow the expiration of said variances to be extended to three years from the date of memorialization of the Resolution; conditioned upon the following: the applicant shall satisfy conditions #2; 3; & 4 in the memorandum of the Zoning Board Engineer regarding the road improvement and maintenance of the access driveway as testified to this evening; and the applicant shall obtain any necessary approvals/permits from all other agencies exercising jurisdiction, as well as required building permits from Hamilton Township.

ROLL CALL VOTE ON THE ABOVE MOTION:

MR. CAIN – NAY
MR. CHOYCE – NAY

MR. FREIRE – AYE
MR. RAFF – AYE

MS. SIMMONS – AYE
MR. TOMASELLO – AYE
MR. CAMPBELL – AYE

SAID MOTION CARRIED.

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

MR. CHOYCE: No, I feel the applicant purchased the lot with the knowledge that a hardship existing.

MR. RAFF: Yes, I feel the topographical conditions on the lot qualifies the applicant under the C-1 hardship grounds.

MR. TOMASELLO: Yes, I feel that due to the irregular topography of the piece of property, relief could be granted under the C-1 hardship, and possibly under the flexible C-2, as well. I feel that the applicants had reasonable grounds for delaying construction, and they have now come back, scaling back the size of the home to comply with newly imposed restrictions and buffers. The parcel is designated for a single family dwelling and I feel it will not have a negative impact.

MS. SIMMONS: Yes, I feel the home will benefit the neighborhood, and the NJDEP approval shows that the applicant has addressed the environmental issues affecting the property.

MR. CAMPBELL, SR.: Yes, I feel the negative and positive criteria have been met. The applicant worked with NJDEP to comply with their requirements, and the applicant has agreed to our engineer's recommendations regarding the access road.

D.F. Equities of New Jersey, LLC – Conflict Solicitor, Timothy Maguire, verified that the proof package had been executed properly and it was marked as Exhibit A-1. Board Members, Robert J. Campbell, Sr.; & Eduardo Freire, recused themselves from participation in this application, due to a conflict of interest. Vice-Chairperson, Werner “Buster” Raff, presided over the application.

Christopher Baylinson, Esq., Attorney for the applicant was present, as well as applicant, Gordon Craig, Chief Operating Officer of D.F. Equities, & Steven Filippone, Engineer for the applicant. Mr. Baylinson informed the Board the applicant is requesting a Use Variance & Preliminary & Final Site Plan Approvals with waivers & C variances, to allow the construction of an addition to an existing workshop building on their commercial facility located in Hamilton Business Park in the IBP zone, located on 5230 Atlantic Avenue, Block 994, Lots 2 & 3.

Mr. Baylinson explained what they are proposing is an expansion of a nonconforming use and will require a use variance. He informed the Board they are proposing a 3,000 square foot addition – 50' x 60' onto the end of an existing office workshop building.

Mr. Baylinson called upon Steven Filippone to testify. Mr. Filippone stated the site is just over six acres and the applicant had previously been granted variances for expansion in 2002 and 2006. Mr. Filippone stated that the applicant has done a tremendous amount of landscaping along Atlantic Avenue to enhance the site. He stated that in addition to the use variance & site plan approvals, they also need a couple of “c” variances such as a 20' rear yard setback and a variance for the length of the building which exceeds the maximum 100' length. He noted the proposed building will be 216' long, however, it will barely be seen from Atlantic Avenue. He stated they are seeking a few waivers, as well. He stated there is a landscape buffer requirement, however, they have mitigated this by additional landscaping. He stated that they are requesting waivers of the E.I.S. and Cultural Resource study.

Mr. Filippone testified the applicant has obtained a Certificate of Filing from the Pinelands Commission. He stated that no storm water calculations were submitted because they were not required because Pinelands states that if the expansion is under 5,000 square feet of impervious coverage, you do not have to.

Mr. Filippone stated this is a very attractive site and is very well lit. He noted it fits in well with the other uses in the Park and there has not been any complaints with this site. He stated that a benefit of the addition will be that some of the outside activity will be moved to inside. He stated that they are constructing a 3,000 square foot addition over an impervious area, so no bonding requirements should be necessary. He noted that Mr. Craig installed 15 parking stalls & drive isles, as well as two additional concrete pads for walkway, and that should be part of this application.

Mr. Maguire verified that the proof package submitted by the applicant has been executed properly, and he marked the following exhibits presented by the applicant into evidence as follows:

- A-1 Architectural Plans
- A-2 Site Plan
- A-3 Aerial Photos
- A-4 Eight Photos depicting landscaping, buildings, tree, & handicapped sign

Mr. Craig testified that he feels there is sufficient landscaping. He stated the building will be under 12,000 square feet and will not require sprinklers. He noted there is no water, gas, or additional electric, and no office – just storage space.

Mr. Raff called upon Arnold Garonzik, Zoning Board Traffic Consultant, to testify. Mr. Garonzik reviewed his memo with the Board and stated the application may be deemed complete. He stated they have adequate parking with 35 spaces, with 28 required, however, the 9' X 18' isles should be shown on the plan. He stated all signs should be shown, including stop signs on driveways, and security lighting should be provided. Mr. Baylinson commented that only employees use the 15 spaces and it should not be necessary for landscape isles. Mr. Craig commented that this would be a detriment. He stated there would be no need for security light, as well, noting this is a secured area – a secured compound, wooded and fenced. Mr. Craig testified that there would be no changes to hours of operation. He stated they will add the additional handicapped space & drive isle dimensions. He noted they would request a waiver for additional drive isles.

Mr. Raff called upon Marc Shuster, Zoning Board Planner, to testify. Mr. Shuster reviewed his memo with the Board, noting this addition would be an expansion of a nonconforming use. He stated that special reasons have been met, noting the applicant stated he would be storing materials inside. Mr. Shuster testified that this expansion should pose no detriment to the public good, and with no impairment to the public. Mr. Craig commented that this would be the last expansion they will request. He stated there would no need for any additional trash enclosures.

Mr. Raff called upon Richard Fini, Zoning Board Conflict Engineer, to testify. Mr. Fini reviewed his memo with the Board. He stated the applicant is requesting a waiver for the E.I.S. and the Cultural Resource Study. He stated that performance guarantees should be waived, however, inspection for the improvements should be conducted by the Township Engineer. He noted that these two lots could be consolidated. Mr. Baylinson commented that these lots are two separate developable parcels and the applicant prefers to keep them as separate lots. Mr. Craig commented that they use concrete curbs and 4' sidewalk, and there is a curb along the 13 spaces in the front of the building.

Mr. Raff called upon J. Adamson, Zoning Board Landscape Consultant, to testify. Mr. Adamson stated that the applicant is required to have a soil berm and he should landscape that. He stated that a few more trees could be added in the streetscape, as

well. Mr. Craig testified that he just added 17 trees behind the existing warehouse and added inkberries and that should mitigate Mr. Adamson's recommendations. Mr. Filippone stated that Mr. Craig has gone far beyond what he needed and I suggest we should submit an asbuilt site plan showing what we have. Mr. Adamson agreed.

Mr. Raff opened the hearing to public comment. Ms. Aline Dix was present and questioned if the application was given to the MUA for comment. Mr. Baylinson stated there is no additional water or sewer capacity as a result of the proposed expansion, with no additional employees, and no sinks or bathroom facilities associated with this. Ms. Dix commented that the Resolution should state that the applicant comply with requirements of all other agencies exercising jurisdiction.

With no further public comment, Mr. Choyce moved, seconded by Mr. Cain, to close the public portion of the hearing. SAID MOTION CARRIED WITH THOSE MEMBERS VOTING "AYE", NO "NAY", NO "ABSTAIN".

Mr. Choyce moved, seconded by Mr. Cain, to deem the application of D.F. Equities of New Jersey, LLC, Block 994, Lots 2 & 3, App.# 23-08, Complete, and grant Waivers for the following: the E.I.S. & Cultural Resource Study; Storm water Management Calculations; Half-scaled Plans; Design Waiver for required soil berm; and a Performance Guarantee Bond and Inspection Escrow shall be waived, however, an inspection of improvements by the Township Engineer shall be required.

ROLL CALL VOTE ON THE ABOVE MOTION:

MR. CAIN – AYE MS. SIMMONS – AYE
MR. CHOYCE – AYE MR. TOMASELLO – AYE MR. RAFF – AYE

SAID MOTION CARRIED.

Mr. Cain moved, seconded by Mr. Choyce, to grant a Use Variance ("D") to D.F. Equities of New Jersey, LLC, Block 994, Lot 2 & 3, App.# 23-08, to allow the construction of a 3,000 square foot addition to an existing workshop/storage building on a commercial facility in an IBP zone.

ROLL CALL VOTE ON THE ABOVE MOTION:

MR. CAIN – AYE MS. SIMMONS – AYE
MR. CHOYCE – AYE MR. TOMASELLO – AYE MR. RAFF – AYE

SAID MOTION CARRIED.

MR. Choyce moved, seconded by Mr. Cain, to grant the following Bulk Variances ("C") to D.F. Equities of New Jersey, LLC, Block 994, Lots 2 & 3, App.#23-08, To allow the construction of a 3,000 square foot addition to an existing workshop/storage building on a commercial facility in an IBP zone: Variance for rear yard setback of 20' where 40 ' is required; Variance for building length of 228' where 100' is required (168' existed); Variance for landscape buffer of 10' where 20' is required (10' existed), conditioned upon the applicant obtaining Site Plan approvals from Zoning Board of Adjustment.

ROLL CALL VOTE ON THE ABOVE MOTION:

MR. CAIN – AYE MS. SIMMONS – AYE
MR. CHOYCE – AYE MR. TOMASELLO – AYE MR. RAFF – AYE

SAID MOTION CARRIED.

Mr. Tomasello moved, seconded by Mr. Choyce, to grant Preliminary & Final Site Plan Approvals with all associated Variances & Waivers, to D.F. Equities of New Jersey, LLC, Block 994, Lots 2 & 3, App.# 23-08, conditioned upon the following: the applicant shall satisfy the recommendations of the Zoning Board Professionals as testified to this evening, and the applicant shall submit a revised asbuilt plan depicting existing & proposed parking stall dimensions & drive isle demensions; all signage; lighting; site triangles; landscaping, etc.; and the applicant shall obtain all necessary approvals/permits from any other agencies exercising jurisdiction.

ROLL CALL VOTE ON THE ABOVE MOTION:

MR. CAIN – AYE

MS. SIMMONS – AYE

MR. CHOYCE – AYE

MR. TOMASELLO – AYE

MR. RAFF – AYE

SAID MOTION CARRIED.

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

MR. CAIN: Yes, I feel the expansion will allow the applicant to store more supplies inside rather than outside.

MR. CHOYCE: Yes, I think this expansion will improve the site as well, and the entire site is well maintained and secured with an 8' fence and secured from public access. I feel this expansion will have no negative effect to the public or to the Master Plan.

MR. RAFF: Yes, I feel there are no negative impacts at all and the intent of the addition to store more items inside rather than outside and protect them from rain and other elements will be a good thing.

MS. SIMMONS: Yes, I would like to reiterate what Mr. Choyce and Mr. Raff stated, and I feel this addition will enhance the area. The applicant has complied with the Professional's recommendations.

MR. TOMASELLO: Yes, I agree with Mr. Choyce. I feel this is a very minimal expansion to what is a nonconforming use, and it will benefit the public because of the inside storage.

Memorialization of Resolution: A Resolution prepared by the Solicitor for the following application was accepted by those Members voting "AYE", NO "NAY", NO "ABSTAIN":

Vincent & Janet Scalen – Block 994, Lots 996.01, Lot 52; App.# 22-08

Adjournment: Ms. Simmons moved, seconded by Mr. Cain, 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.

