

The Regular Meeting of the Planning Board of the Township of Upper Deerfield was held on Monday, June 18, 2018 at 7:00 pm in the Municipal Building, Seabrook, N.J.

Chairman: Ed Overdevest called the meeting to order and read the following notice:

This is a regularly scheduled meeting of the Planning Board of the Township of Upper Deerfield. In compliance with the "Open Public Meeting Act" a schedule of regular meetings containing the location and time and date of each meeting was approved at the Annual Organization Meeting of the Board, and within seven days following such Organization meeting, a copy of such schedule of regular meetings was posted in the Municipal Building at Seabrook, New Jersey, which Notice has remained so posted throughout the year, and copies of the schedule of regular meetings have been mailed to The Daily Journal and The Press of Atlantic City and filed with the Township Clerk in compliance with said Act.

Present:

Chairman Ed Overdevest,

Vice Chairman Russell Vanella,

Members: Robert Comer, Jack Waselik, Terry O'Neill, Anthony Buono, Laura Hayes alt 1, Wayne Sabota alt 3,

Staff: Engineer J Michael Fralinger, Jr. PE, CME, Planner Randy Scheule, PP, AIC,

Solicitor Matthew Ritter, Esq., Secretary Vicki Vagnarelli

Absent: Scott Smith, Joseph Spoltore, Kenneth Jackson alt 2, Solicitor Theodore H. Ritter, Esq.

On motion of Anthony Buono seconded by Wayne Sabota, Minutes of May 21, Approved.

On motion of Robert Comer seconded by Anthony Buono the following resolution was memorialized

RESOLUTION 10-2018

TOWNSHIP OF UPPER DEERFIELD PLANNING BOARD

APPLICANT'S NAME: Fred Allen Irrevocable Trust

APPLICATION NO.: P-3-13

PROPERTY: 290 Rosenhayn Ave.; Block 2701, Lot 22

PUBLIC HEARING: May 21, 2018

FINDINGS OF FACT:

1. The Applicant was represented by John G. Carr, Esq., who appeared and presented the case.
2. Fred Allen was sworn and gave testimony regarding the Application.
3. The property in question contains a residence and detached garage on 2.72 acres in the Agricultural

4. Applicant proposes a second detached garage which expands the nonconforming residential use, necessitating a use variance pursuant to N.J.S.A. 40:55D-70(d)(2).

5. The Board received and considered the following:

- A. Application form dated April 23, 2018
- B. Application for Zoning Permit dated April 23, 2018
- C. Portion of conceptual Site Plan (undated, unsigned)
- D. November 27, 2017 Plan of Survey & Topography

6. The proposed pole barn garage would be 293' from Rosenhayn Avenue, and would have 8 total overhead doors, 4 on each side. Applicant requested a waiver of the maximum 3-car private garage requirement.

7. The proposed garage meets all bulk requirements for the zone except for the 3% accessory structure coverage limitation, for which applicant requested a waiver. It was noted that 5% accessory coverage is permitted in the residential zones, a standard which this residential property would otherwise meet.

8. Mr. Allen is a car collector and would like to consolidate his car collection here in NJ, as he is currently storing several cars in Florida and South Carolina.

9. Applicant agreed to submit a perfected plan which indicated the garage dimensions of 40' by 64'.

10. Mr. Allen testified that no business would be conducted in or from the new garage, and that no water or sewer service would be needed for the building.

11. Counsel for the Applicant described the Applicant's unsuccessful efforts to obtain additional contiguous property, which is bordered by a preserved farm and a residence which is vacant and in foreclosure.

12. The Board received and considered the May 10, 2018 Report of Board Planner Randall Scheule, PP/AICP who was present and participated in the hearing.

13. The Board also received and considered the May 14, 2018 Report of Board Engineer J. Michael Fralinger, Jr., PE, CME, who was present and participated in the hearing.

14. After hearing from their Professionals, the Board deemed the Application complete, subject to the following waivers contained in their respective Reports:

- A. "D" Variance Checklist – item #7 (key map)
- B. "D" Variance Checklist – item #8 (title block, etc.)
- C. "D" Variance Checklist – item #13 (200' list)
- D. "D" Variance Checklist – item #15 (zoning district)
- E. "D" Variance Checklist – item #16 (zone requirements)
- F. "D" Variance Checklist – item #18 (photograph of property)
- G. "D" Variance Checklist – item #32 (septic information)
- H. "D" Variance Checklist – item #41 (environmental impact report)
- I. "D" Variance Checklist – item #44 (drainage calculations)
- J. "D" Variance Checklist – item #46 (list of waivers requested)

15. Mr. Carr provided argument concerning the variance standard, including special reasons and justification that the variance could be granted without substantial detriment to the public good, and would not substantially impair the intent and purpose of the zone plan and zoning ordinance.

16. The Board opened the meeting to the public and no one testified for or against the Application.

17. Solicitor Ritter gave a summary of the Application and reminded the Board of the numerous times that long-existing residences in the agricultural zone have appeared before the Board due to the reasonable expansion of that nonconforming residential use. The Solicitor indicated that if this lot were in any residential zone, no variance would be necessary for the construction of the garage.

18. The Board found that compliance was had with each of the various requirements of the Open Public Meetings Law, P.L. 1975 C. 231.

19. The Board has carefully considered this matter and finds that good cause exists for the granting of the requested (d)(2) use variance for the expansion of the existing non-conforming use (subject to conditions), and

further finds that the proposed expansion will not adversely impact the general welfare. The Board further finds by clear and convincing evidence that the proposed expansion does not present a detriment to the public good, nor to the Township zone plan nor zoning ordinance.

NOW THEREFORE BE IT RESOLVED by the Board that, fore the foregoing reasons, the requested use variance relief and otherwise applicable design waivers for the applicant's proposal as depicted on the plan and described herein, including accessory lot coverage and garage size limitation, are hereby granted subject to the following conditions:

C-1. That compliance be had with all other applicable requirements of the Upper Deerfield Township Development ordinance and building code.

C-2. That Applicant pay any and all required fees that are due, or become due to the Township, and replenish any outstanding review escrow accounts as directed, within seven (7) days notice thereof.

C-3. The Applicant must comply with all representations made through any representative during the course of Applicant's presentation to the Board, and in all documents filed with the Application.

C-4. Applicant shall obtain approvals and permits as may be required from any other agency having jurisdiction.

C-5. Prior to construction, Applicant shall submit a perfected plan which includes the requirements set forth herein, and which complies with the Review Letters of the Board Planner and Board Engineer, respectively.

Roll Call

Ed Overdevest – Aye

Robert Comer, Aye

Scott Smith – Absent

Joseph Spoltore - Absent

Vacant seat

Laura Hayes, Alt #1 – no vote

Wayne Sabota, Alt #3 Aye

Russell Vanella – no vote

Terry O'Neill – no vote

Jack Waselik – Aye

Anthony Buono, Sr. - Aye

Kenneth Jackson, alt #2 - Absent

Vacant seat, Alt # 4

On motion of Jack Waselik seconded by Wayne Sabota the following resolution was memorialized

RESOLUTION 11-2018

TOWNSHIP OF UPPER DEERFIELD PLANNING BOARD

APPLICANT'S NAME: Glick Harvey, LLC, d/b/a Nicey's Store

APPLICATION NO.: P 4-18

PROPERTY: 12 Park Drive, Block 1708, Lot 12

PUBLIC HEARING DATE: May 21, 2018

FINDINGS OF FACT:

1. The Applicant was represented by Howard D. Melnicove, Esq., who appeared and presented its case.
2. Applicants witness was Michael G. Weist, a principal of the Applicant.
3. The property in question is located in the R-2 zone and comprises 0.7578 acres.
4. To begin the hearing, the Board Solicitor reviewed the history of the property, which included several appearances before the Planning Board over the years:
 - A. In 1975, a use variance was granted to a prior owner, permitting the operation of a retail business at the location, despite the R-2 Residential zoning.
 - B. Prior to the 1975 use variance, it was noted that the property was "being used as a nursery with a small roadside retail outlet [which use] existed prior to the adoption of the Township of Upper Deerfield Zoning Ordinance."
 - C. In 1996, a use variance was granted to prior owners Charles and Lynn Timberman to expand the retail operation, which the Resolution described as a "previously existing nonconforming use," into the residential dwelling, which exists upon the same property.
 - D. In 2009, Nicey's Sports Store, LLC appeared before the Zoning Board for an interpretation, wherein the Board found that the proposed e-Bay store was permitted under the original 1975 use variance.

E. Finally, in 2013, the current owners applied to the Board and were granted a variance to convert the former residential portion of the property back into a residence, thereby reinstating two principal uses on one lot.

5. Applicant's most recent retail tenant has left the property as of April 2018. Applicant now requests a use variance to allow a personal services use to occupy the portion of the property which has been utilized solely as retail space from a time predating the original 1975 variance.

6. The B-2 Zone bulk requirements for retail and personal service uses are identical.

7. Applicant proposes a 3-chair barbershop and offered into evidence a 2013 plat plan to which no changes are proposed. The plat plan was accepted by the Board, in 2013, when it waived the requirement of a formal Site Plan.

8. Board Planner Randall Scheule indicated his opinion that the plat plan was sufficient for the Board's consideration, since no site changes were being proposed.

9. Board Engineer J. Michael Fralinger, Jr. indicated his opinion that the application could be deemed complete, subject to the waivers listed in his May 15, 2018 Review Letter, namely Checklist Schedule "C" – D Variance, items 2, 7, 8, 13, 15, 16, 18, 41, and 46.

10. Upon recommendation of the Board's professionals, the Board voted to deem the application complete.

11. Mr. Weist gave testimony concerning the proposed use, including the hours of operation of the barbershop, which are anticipated to be less than the 9am-6pm hours of the retail store.

12. Mr. Weist testified that the 8 parking spaces available for the commercial use were sufficient for the proposed use, and the Board Engineer confirmed that the parking standard had been met.

13. The meeting was opened to the public and no one testified for or against the application.

14. Applicant's counsel gave a summary, including his argument that the standard for granting a use variance had been met.

15. The Board found that compliance was had with each of the various requirements of the Open Public Meetings Law, P.L. 1975 c. 231.

NOW THEREFORE BE IT RESOLVED that the Planning Board has carefully considered this matter and finds that special reasons exist for the granting (subject to conditions) of the N.J.S.A. 40:55D-70(d) use variance for the operation of a personal services business, namely a barber shop. The Board further finds that the proposed use is particularly suited for the proposed location, given the property's use history and prior variances. The Board also finds, by clear and convincing evidence, that the proposed use does not present a detriment to the public good, nor to the Township zoning plan or zoning ordinance;

BE IT FURTHER RESOLVED that the Board hereby waives the requirement of a formal Site Plan.

BE IT FURTHER RESOLVED that the approval of the foregoing use variance is subject to the following conditions:

C-1. That compliance be had with all other applicable requirements of the Upper Deerfield Township Development ordinance and building code.

C-2. That operations comply with the representations and testimony presented at the public hearings of May 21, 2018.

C-3. The prohibition of parking in front of the building will continue.

C-4. All signage must be compliant with applicable Township Ordinances.

C-5. Applicant must pay any and all required fees that are due, or become due to the Township, and replenish any outstanding review escrow accounts as directed, within seven (7) days' notice thereof, and

C-6. The Applicant shall obtain approvals and permits as may be required by any other agency having jurisdiction.

Roll Call

Ed Overdeest – Aye
Robert Comer, Aye
Scott Smith – Absent
Joseph Spoltore - Absent

Russell Vanella – no vote
Terry O'Neill – no vote
Jack Waselik – Aye
Anthony Buono, Sr. - Aye

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Vacant seat

Laura Hayes, Alt #1 – no vote

Kenneth Jackson, alt #2 - Absent

Wayne Sabota, Alt #3 Aye

Vacant seat, Alt # 4

Planner Scheule informed the Board information will be forthcoming regarding Bristol Ponds 1901/15, 15.02, 15.03 & 16 and it will be discussed at next meeting.

On motion of Russ Vanella seconded by Terry O'Neill the public portion of the meeting was opened. With no one coming before the Board on motion of Robert Comer seconded by Jack Waselik the public portion was closed.

Being no further business on motion of Robert Comer seconded by Laura Hayes the meeting was adjourned.

Respectfully Submitted,

Vicki Vagnarelli