

RESOLUTION NO. 2013-14

Applicant: BRSA Properties LLC
Property: ~~135 Route 73~~ 219-223 Haddon Ave
Block 521 Lots 8 and 10

Preliminary and Final Site Plan Approval - with variance

RESOLUTION OF THE BERLIN TOWNSHIP PLANNING/ZONING BOARD
GRANTING PRELIMINARY FINAL SITE PLAN - WITH VARIANCE

WHEREAS. The applicant appeared before the Board on November 26th 2013, and is applying for preliminary and final Site Plan approval for property known as Block 521 Lots 8 and 10, and

WHEREAS. The applicant has submitted a site plan for approval, which plan has been reviewed by Charles J. Riebel Jr. P.E., P.L.S., P.P. the Engineer for the Board. The report of the Board's Engineer is dated November 19th 2013. The applicant appeared before the Board and was represented by the law office of Michael J. Ward Esq., and

WHEREAS. Also appearing for the applicant was Ronald Faul R.A. and Bruce I Karf, applicant.

WHEREAS. The applicant provided the following reports;

- a. Site Plan dated September 10th 2013 prepared by Ronald C. Faul, R.A.
- b. Topography Survey, revised to June 6th 2013 by Frank A. Intessimoni P.L.S. P.P.
- c. Survey of Property dated May 6th 2004 by Frank A. Intessimoni P.L.S. P.P.
- d. Deed dated May 7th 2004.

WHEREAS. The Board has received and reviewed all reports filed by the applicant and the Board engineer, and

WHEREAS. The site is located in the Central Business District. The existing office use is a permitted use in the CBD Zone.

As part of opening discussion and with the Board's request, the applicant did address the intended use as Ice Cream Store sales as being consistent with the retail uses permitted in the CBD Zone.

After presentation by the applicant's attorney and comments by the Board's attorney, a Motion was made and seconded by the Board to determine Ice Cream Store Sales as consistent with the permitted Retail uses in the CBD Zone.

The Board voted unanimous in finding the intended Ice Cream Store sales as a use consistent with Retail uses permitted in the CBD Zone.

AND, FURTHER

WHEREAS. The Board determined that the application is properly before the

Board and the proof of notice and publication is appropriate, and

WHEREAS. The applicant has received and reviewed a copy of the Board Engineer's report. The applicant introduced exhibit A-1 Photo exhibit, A-2 Equipment lay-out sketch and A-3 architect plan.

Following a review of the application, and the receipt of testimony, the Board determined;

1. The applicant has made application for preliminary and final site plan approval. The site is located along the southeast side of Haddon Avenue. There exist a 1½ story office building with a total of 2241 square feet and a garage. There is also an existing bituminous parking area with 13 parking stalls, a stockade wood fence trash enclosure. There is proposed a 540 square feet building in the area of the garage.

2. The testimony established that the applicant intends to use the entire first floor for a proposed ice cream business. The majority is identified to be walk-up business. However, the applicant also proposes to provide limited 16 seats in the proposed outside deck area. There is no intended indoor seating at this time. The applicant further testified that the second floor will continue to be used as an office for the applicant's business only. Also, the 540 square feet proposed building will be used by the applicant for storage necessary for his ice cream store business as an accessory use to the existing building and not to be used as a separate warehouse facility.

3. The following variances were identified as necessary to the applicant's proposal;

A rear yard set-back for the proposed 540 square feet proposed storage building, to be set consistent with the existing garage at approximately 2.1 feet.

A front yard set-back from Haddon Avenue for the proposed deck and ramp to be set at 11.3 feet.

Variances for the pre-existing non-compliant conditions present with the existing parking area - all identified at # 3b 1 through 6 of the Board's engineer report dated November 19th 2013. It is noted that the applicant agreed to install concrete bumper blocks at parking spaces (3b7).

4. Following much discussion between the Board and the applicant, it was determined by the Board the existing 13 parking spaces were sufficient for the nature of the business, being mostly walk-up, with limited number of customers using the proposed 16 seats in the proposed deck area. The applicant did submit testimony that if business increases to a point where additional parking is necessary to keep vehicles off the streets, the applicant will return to the Board for an expansion of the parking site.

5. There was some discussion on the driveway at Haddon Avenue. The Board expressed concern over two way traffic at Haddon Avenue and that the existing driveway was too narrow. The Board requested and applicant agreed that Haddon Avenue would be marked and signed as Entrance Only. Further the driveway at Lester Avenue will be marked for Entrance and Exit traffic.

6. Following discussion, the applicant agreed to replace the cracked and settled walkway near the building and revise the plan to correctly show the location of the handicap ramp and landing and air conditioning units and gas meter and bollards along the side of the existing building.

7. There was some discussion on the two lots being consolidated. The applicant agrees to consolidate the lots into one site.

8. During the discussion on trash removal, the applicant gave testimony that trash is anticipated to be picked up, privately, once a week between the hours of 10:00 am or 11:00 am., day to be scheduled. The applicant agreed that the trash container enclosure will be painted to match the exterior of the existing building.

9. The applicant testified that he intends to use the existing free standing sign and the additional façade sign located on the front of the garage will be removed. As to any additional signage, the applicant testified that at the window front he will have in place a menu face sign. The Board expressed no opposition to this menu display sign.

10. There was a recommendation provided by the Fire Marshall's office requesting the applicant agree to install a KNOX BOX key security for emergency access. The applicant agreed. The applicant also agree to comply with the Board Engineer report dated November 19th 2013 at 6c., as it relates to widening of Haddon Avenue and shade tree requirements.

11. The meeting was opened to the public with one objection being noted over possible traffic and noise and lights in the area of McCellan Avenue. The applicant responded and the Board expressed a finding that the nature of the applicant's ice cream sales and site, which has been determined to be a permitted Retail Use, would not be a significant nor substantial impact on the neighboring property.

NOW THEREFORE, BE IT RESOLVED, by the Planning/Zoning Board of the Township of Berlin that the application for preliminary and final site plan approval, be and is hereby GRANTED.

BE IT FURTHER RESOLVED, by the Planning/Zoning Board of the Township of Berlin that the following variances is Granted;

A rear yard set-back for the proposed 540 square feet proposed storage building, to be set consistent with the existing garage at approximately 2.1 feet.

A front yard set-back from Haddon Avenue for the proposed deck and ramp to be set at 11.3 feet.

Variances for the pre-existing non-compliant conditions present with the existing parking area - all identified at # 3b 1 through 6 of the Boards engineer report dated November 19th 2013. It is noted that the applicant agreed to install concrete bumper blocks at parking spaces (3b7).

BE IT FURTHER RESOLVED, that the following Waivers have been approved;

1. A waiver from the Loading Zone requirement
2. A waiver from the requirement of street widening along McCellan and Lester Avenue.

BE IT FURTHER RESOLVED, that the following conditions of this approval have been approved and agreed to by the applicant;

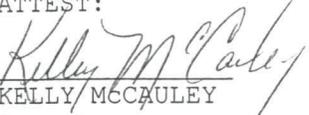
1. The applicant agreed to provide a Deed of Consolidation of Lots.
2. The applicant agreed to provide a landscaping plan for the Board's engineer review and approval.
3. The applicant agrees to continue the use of the existing free standing sign and removal of the front façade sign on the garage.
4. The applicant will install concrete bumper stops at parking stalls.
5. The applicant agreed to install concrete sidewalk on the frontage at Lester Avenue and McCellan Avenue by 12/31/16. The applicant will

provide a performance bond to secure the sidewalk construction.

6. The applicant will provide the form of window menu for the Board's engineer approval.

The applicant shall receive all approvals as may be necessary from applicable Local, County, State or Federal agencies, and shall comply with all such laws, rules and regulations. The applicant shall post any necessary performance and maintenance guarantee and inspection escrow as may be determined necessary and required pursuant to MLUL.

ATTEST:


KELLY/McCAULEY
Secretary

BERLIN TOWNSHIP
PLANNING/ZONING BOARD


Andrew Simone
Chairman

CERTIFICATION

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution adopted by the Berlin Township Planning/Zoning Board at a meeting held on November 26th 2013.


KELLY McCAULEY, Secretary