

**FLORENCE TOWNSHIP
ZONING BOARD OF ADJUSTMENT**

RESOLUTION NO. Z.B.-2017-09

Application ZB#2017-01

**RESOLUTION OF MEMORIALIZATION
APPLICATION OF
MIRAJ PROPERTIES, LLC
USE VARIANCE
BLOCK 48, LOT 7
IN THE NC
NEIGHBORHOOD COMMERCIAL ZONE DISTRICT
DENIAL**

Decided:

March 6, 2017

Resolution Memorialized:

May 1, 2017

WHEREAS, Miraj Properties, LLC, has made application to the Florence Township Zoning Board of Adjustment seeking use variance approval to allow conversion into a five unit residential apartment building (with additional bedrooms added to existing units) of an existing building with 4-residential apartment units and one ground floor storefront, 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, the applicant is the owner of the subject property and therefore has standing to bring this application before the Board;

WHEREAS, the applicant mailed and published notice of a hearing to be held at the Board's regular meeting on February 6, 2017;

WHEREAS, the applicant is represented Devon Graf, Esquire;

WHEREAS, the applicant's Construction Consultant, Ruben Sepulveda appeared, was sworn, and offered his testimony in support of the application;

WHEREAS, after presentation of the applicant's initial case-in-chief, the Board requested that the applicant provide additional information concerning the proposed development including: the nature of the pre-existing uses on the property, existing and proposed floor plans and an analysis of parking demand and availability in the vicinity of the subject property;

WHEREAS, through counsel, the applicant requested that the Board adjourn the public hearing on the application to the time and date certain of the Board's March 6, 2017 regular meeting, and consented a concomitant extension of time for decision by the Board;

WHEREAS, at the Board's March 6, 2017 regular meeting, the applicant presented additional evidence concerning parking, including testimony from traffic expert A. Andrew Feranda, PE, PTOE, CME, and amended its application to eliminate a proposed second floor extension and to have only 4 expanded and reconfigured apartment units while continuing to eliminate the existing ground level storefront;

WHEREAS, the expanded and reconfigured apartments included in the applicants amended application would have a total of 9 bedrooms and a parking demand of 8 off-street parking spaces, while the existing apartments have a total of 4 bedrooms and a parking demand of four off-street parking spaces;

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. As amended on the record of the Board's March 6, 2017 public hearing, application has been made for a use variance pursuant to NJSA 40:55D-70(d)1 from requirements of local ordinances, to permit conversion of an existing two-and one half story building with a first-floor storefront, and four residential apartments with a total of 4 bedrooms on the first two floors of the building, to a 4 apartment unit building with a total of 9 bedrooms on three floors, and no storefront.
5. Single-family residences and upstairs flats above commercial uses are permitted in the NC Zone District, but multi-family dwelling units are not, so a use variance is necessary to permit the proposed use.
6. A *de minimus* exception from the Residential Site Improvement Standards, NJAC 5:21-1 et seq., ("RSIS"), has been requested because the applicant intends to rely entirely upon on-street parking to serve the apartments instead of the eight on-site parking stalls that would otherwise be required under the RSIS standards for the three 2 bedroom and one 3-bedroom apartment units.
7. 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 statement of justification for the requested relief submitted with the Land Development Application form.
 - e. A survey plan of the subject property prepared by Harold J. Bozarth, Jr., PLS, dated 11-11-2016, which shows the property outbounds and the locations of improvements;
 - f. A 1-2-2017 revised version of the submitted survey introduced in the course of the Board's February hearing as Exhibit A-1;
 - g. A series of hand drawn plan and elevation views of the of the subject property prepared by the applicant's Construction Consultant, Mr.

Sepulveda introduced in the course of the Board's February hearing as Exhibit A-2, A-3 and A-4;

- h. Conceptual Architectural Plans comprised of a single sheet entitled "Existing and Propose [sic] Floor Plan", Project "Raymond Hussein 20 West Front Street, Florence Town [sic], NJ" prepared by Frank E. Pannone, PE and Register [sic] Architect, dated 2-22-17, and existing and proposed floor plans of the initially proposed 5 apartment development;
 - i. Architectural Plans comprised of two sheets, A-1 and A-2, entitled "150 Alden Property Florence, LLC, 150 Alden Ave., Florence, NJ 08554" prepared by Alfredo Trevino, AIA, dated 02-16-2016, and showing plan and elevation views of the amended 4 apartment development marked into evidence in the course of the March public hearing as Exhibit A-4;
 - j. A document entitled "Parking Assessment" prepared by A. Andrew Feranda, PE, PTOE, CME, of Shropshire Associates, dated February 23, 2017;
 - k. A series of 7 photographs of the interior and exterior of the subject and property;
 - l. A letter dated July 18, 2016 from Township Administrator and Zoning Officer Richard Brook opining that the pre-existing non-conforming 4 apartment unit use, along with the permitted storefront can remain in use;
 - m. A Zoning Officer's Certification denying approval to expand the existing non-conforming residential uses;
 - n. A copy of the Certificate of Formation of Miraj Properties, LLC;.
8. The Board's Engineer, Andrew Bannf, PE, CME, of Maser Consulting, submitted review letters commenting upon the application dated and January 31, 2017 and March 3, 2017, which are hereby incorporated into the record.
9. The Board's Planner, Barbara Fegley, PP, AICP of Environmental Resolutions, Inc., submitted a review letter dated January 27, 2017 commenting upon the application which is hereby incorporated into the record.

10. The Florence Township Environmental Commission submitted a review letter dated February 3, 2017 that expressed the Commission's concerns with parking and any addition of impervious surface if off-street parking were provided.
11. The proposed use (as amended) would require a total of 8 off-street parking spaces, but the subject property is incapable of supporting that number of parking spaces. The applicant has proposed construction of two off-street spaces at the rear of the subject property, but these spaces are infeasible because access would be via a dubiously improved alley running along the rear of the subject property, stormwater management measures necessitated by increased impervious surface from the new spaces have not been addressed, and such spaces would trigger other variances and exceptions from the bulk and design standards of Township ordinances. In sum, such spaces would be hard to get to, hard to get into and have too many other negative externalities to be acceptable.
12. The proffered parking study and related testimony that seek to justify use of on-street parking are inadequate because they explicitly address only the current availability of parking in the vicinity of the subject property and fail to address the impacts of re-occupation of other nearby commercial and residential buildings, including most significantly a neighboring bar that was not in operation at the time of the study. In addition, the study was performed in the Winter, when the nearby park and boat launch are not in operation; when these facilities are in use, on-street parking is in much greater demand in this neighborhood.

Conclusions of Law

It is unnecessary for the Board to review the applicant's proofs concerning the positive criteria applicable to variances under NJSA 40:55D-70(d), because the applicant has not proven that the proposed use variance can be granted without substantial impairment of the zone plan and without substantial detriment to the public good. The proposed development is a substantial intensification of the existing permitted storefront and apartment use. The primary impact of that intensification is substantially increased demand for parking. The site cannot support parking needs of existing or proposed development, and as a result must rely upon on-street parking. The applicant has not proven that the neighborhood can support the

on-street parking needs of the applicant's site, as well as the needs of neighboring properties and uses.

Because the applicant has failed to meet its burden under the under the negative criteria, the application must be denied.

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 Miraj Properties, LLC, seeking use variance approval to allow conversion into a four unit residential apartment building (with a total of 9 bedrooms) of an existing building with 4-residential apartment units (with 4 bedrooms) and one ground floor storefront, 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, be, and hereby is, **DENIED**, subject to the following conditions:

1. All taxes and escrow fees for professional review must be paid current and in full.
2. 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 : Sovak
Seconded by : Lutz
In Favor : Sovak, Lutz
Opposed : Buddenbaum, Cartier, Drangula, Patel, Zekas
Recused : None
Absent : None

Because the Motion to Approve the Application failed to obtain the necessary 5 affirmative votes, the application is denied.

MOTION TO ADOPT RESOLUTION:

Moved by : Patel
Seconded by : Lutz
In Favor : Buddenbaum, Drangula, Lutz, Patel, Sovak, Zekas
Opposed : None
Abstained : None
Absent : Cartier

**FLORENCE TOWNSHIP
ZONING BOARD OF ADJUSTMENT**

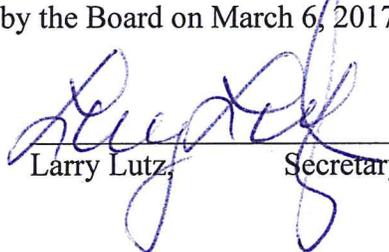
Dated: 5/1/17


B. Michael Zekas, 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 May 1, 2017 and memorializes a decision taken by the Board on March 6, 2017.

Dated: 5/01/2017


Larry Lutz, Secretary