

**FLORENCE TOWNSHIP
ZONING BOARD OF ADJUSTMENT**

RESOLUTION NO. Z.B.-2020-04

Application ZB#2019-11

**RESOLUTION OF MEMORIALIZATION
APPLICATION OF
VILLAGE HOLDINGS, LLC
USE VARIANCE
BLOCK 57, LOT 17
IN THE NC
NEIGHBORHOOD COMMERCIAL ZONE DISTRICT
APPROVAL**

Decided: February 3, 2020
Resolution Memorialized: March 2, 2020

WHEREAS, Village Holdings, LLC, has made application to the Florence Township Zoning Board of Adjustment seeking use variance approval to allow conversion of an existing first floor office in an existing building with three existing one-bedroom residential apartment units (one on the first floor and two on the second floor), into a one-bedroom apartment (for a new total of two one-bedroom units on the first floor and two one-bedroom units on the second floor, and no office space on the first floor), at property located at 214-216 Broad Street, and known on the official Tax Map of the Township of Florence as Block 57, Lot 17;

WHEREAS, the applicant is the owner of the subject property and therefore has standing to bring this application before the Board;

WHEREAS, the applicant is represented by Jonas Singer, Esquire;

WHEREAS, upon a finding that the applicant had mailed and published proper notices, the Board opened a public hearing on the application at its February 3, 2020 regular meeting;

WHEREAS, the Board granted certain submission waivers based upon the recommendations of the Board Engineer as set forth in his letter of January 8, 2020 and found the application sufficiently complete to be heard;

WHEREAS, the applicant's planning expert, James Miller, PP, AICP, appeared, was sworn, was accepted as an expert in the field of professional planning, and offered his testimony in support of the application;

WHEREAS, Daniel Pensiero, a member of the applicant limited liability company, appeared, was sworn, and offered his testimony along with the arguments and representations of counsel in support of the application;

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 214/216 Broad Street, in the Florence Township Neighborhood Commercial Zone District, and is known on the official Tax Map of the Township of Florence as Block 57, Lot 17;
3. The applicant has submitted proofs of service of notice and proof of publication, and the Board has jurisdiction to hear this application.
4. Application has been made for a use variance pursuant to NJSA 40:55D-70(d)1 from requirements of local ordinances, to allow a conversion of an existing first floor former eye doctor's office in an existing building with three existing one-bedroom residential apartment units (one on the first floor and two on the second floor), into a one-bedroom apartment (for a new total of two one-bedroom units on the first floor and two one-bedroom units on the second floor, and no office space on the first floor.

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. The proposed new apartment is only 660 sq. ft. in area when the ordinance requires a minimum of 850 sq. ft., so a bulk variance is also necessary for approval of the proposed office to apartment conversion.
7. 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 seven on-site parking stalls that would otherwise be required under the RSIS standards for the proposed total of four one-bedroom apartment units. Five parking spaces are required for the three existing one bedroom apartments and three additional parking spaces are be required for the existing office unit.
8. 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 Bruce Benish, PLS, dated September 19, 2019, which shows the property outbounds and the locations of improvements;
 - f. An exhibit prepared by Mr. Pensiero documenting the applicant’s efforts to market the property as an office rental, introduced and accepted into evidence in the course of the public hearing as Exhibit A-1;
 - g. A realtor listing agreement dated September 13, 2018, introduced and accepted into evidence in the course of the public hearing as Exhibit A-2;
 - h. A series of photographs of the subject property, introduced and accepted into evidence in the course of the public hearing as Exhibit A-3;

- i. Drawings prepared by the applicant showing the existing floor plan of the office unit and proposed floor plan for the apartment unit;
 - j. A series of seven photographs of the interior and exterior of the subject and property;
9. The Board's Engineer, Hugh J. Dougherty, P.E., C.M.E. of Pennoni Associates, Inc., Consulting Engineers, submitted a review letter dated January 8, 2020 commenting upon the application, which is hereby incorporated into the record.
10. The Board's Planner, Barbara Fegley, PP, of Environmental Resolutions, Inc., Engineers, Planners, Surveyors, Scientists, submitted a review letter commenting upon the application dated January 21, 2020, which is hereby incorporated into the record.
11. The submitted proofs show that the unit that has been used as an office is configured as living space with a full bathroom, a full kitchen and spaces that are suitable for use as living, dining and bed rooms. No material alterations must be made to use the current office space as a one-bedroom apartment, and it appears that it may actually have been constructed for that purpose and used that way at some time in the past.
12. Residential use already exists at the subject property in the three existing one-bedroom apartments, residential uses are allowed above commercial uses in the NC Zone, and residential uses are allowed on adjoining properties which lie in the RA Low Density Residential Zone District.
13. Mr. Pensiero testified extensively about the landowner's unsuccessful efforts to market the subject property as an office rental and provided documents to support his testimony. The Board finds his evidence that there is no market demand for the unit as an office rental to be credible and probative.
14. The principal deviation from applicable standards (other than the use itself) concerns parking. Under the applicable Residential Site Improvement Standards ("RSIS"), the proposed use would require a total of 7 off-street parking spaces, but none are proposed. The subject property is incapable of supporting the necessary parking spaces. Construction of off-street spaces at the rear of the subject property is infeasible because the rear yard area is too small, and to the extent any such

spaces could be provided, they would trigger other variances and exceptions from the bulk and design standards of Township ordinances.

15. The proposed apartment use with a theoretical demand of 1.8 parking spaces actually requires less parking than the existing office use, and Mr. Pensiero testified to there not being a problem presently with on-street parking in the vicinity of the subject property. Mr. Pensiero's testimony concerning the current availability of parking is supported by the observations of the applicant's planner, Mr. Miller, and the Board's professionals.
16. Planner Miller offered his expert opinion that the proposed variance would advance purposes (a) and (g) of the Municipal Land Use Law and that the subject property is particularly suited to the proposed use because of the residential character of the structure and the rest of its current uses, and because the general character of its surroundings is more residential than commercial. He reconciled the fact that the use is not allowed in the NC Zone with the fact that the building predates the current zoning and the use is consistent with the building's design.
17. Planner Miller further opined that these factors also result in there being little detriment to the public good or impairment to the zone plan as a result of the proposed use variance.
18. No public comment was offered on the application.

Conclusions of Law

The Board finds that the proposed application seeks a use variance pursuant to NJSA 40:55D-70(d)1. Special reasons exist for the proposed variance because of essentially residential character of the subject property, which already has three apartment units, and in which even the current office appears to have been built initially for use as a dwelling. Moreover, there is ample proof that there is no market demand for use of the unit as an office.

The applicant has also proven that the proposed use variance can be granted without substantial impairment of the zone plan and without substantial detriment to the public good. Because there are already apartment uses in the building at the subject property, it is difficult to find much impairment of the zone plan in addition of one more apartment use. Any impairment of the zone plan is therefore not substantial. The principal impact of proposed development on the public good is a minimal reduction of the parking demand over that of the existing permitted office and non-conforming apartment uses. The site cannot support parking needs of existing or proposed development, and as a result must continue to rely upon on-street parking, as it does now. The applicant has shown that there is presently sufficient parking in the neighborhood to support the on-street parking needs of the applicant's use- even after the proposed improvements, as well as the needs of neighboring properties and uses.

For these reasons, the proposed use variance, bulk variance for apartment area and *de minimus* waiver of RSIS parking standards should be approved, subject to appropriate conditions as set forth below.

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 Village Holdings, LLC, seeking use variance approval to allow conversion of an existing first floor office in an existing building with three existing one-bedroom residential apartment units (one on the first floor and two on the second floor), into a one-bedroom apartment (for a new total of two one-bedroom units on the first floor and two one-bedroom units on the second floor, and no office space on the first floor), at property located at 214-216 Broad Street, and known on the official Tax Map of the Township of Florence as Block 57, Lot 17, be, and hereby is, **APPROVED**, subject to the following conditions:

1. The applicant shall meet at the site with the Board Engineer to confirm that the curbs and sidewalks at the subject property are in good repair and shall make repairs as determined administratively by the Board Engineer.
2. There shall be no increase in the bedroom count or allocation, or the number of dwelling units, without further approval of the Board.
3. All taxes and escrow fees for professional review must be paid current and in full.
4. 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:

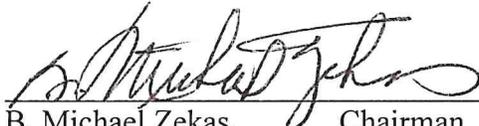
Moved by : Lutz
Seconded by : Cartier
In Favor : Lutz, Cartier, Buddenbaum, Mattis, Patel, Sovak, Zekas,
Opposed : None
Recused : None
Absent : Mount

MOTION TO ADOPT RESOLUTION:

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

**FLORENCE TOWNSHIP
ZONING BOARD OF ADJUSTMENT**

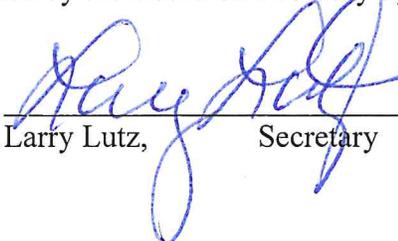
Dated: 3/2/2020


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 March 2, 2020 and memorializes a decision taken by the Board on February 3, 2020.

Dated: 3/02/2020


Larry Lutz, Secretary