

**FLORENCE TOWNSHIP
ZONING BOARD OF ADJUSTMENT**

RESOLUTION NO. Z.B.-2023-09

Application ZB#2022-11

**RESOLUTION OF MEMORIALIZATION
APPLICATION OF
RANT PROPERTIES
(VICTOR ROBBINS GROUP)
USE VARIANCE
MINOR SITE PLAN
BLOCK 125, LOTS 24 and 25
NEIGHBORHOOD COMMERCIAL ZONE DISTRICT
APPROVAL**

Decided: April 3, 2023
Resolution Memorialized: May 31, 2023

WHEREAS, by way of its Resolution 2022-07 dated March 7, 2022, the Florence Township Zoning Board of Adjustment granted to applicant Victor Robbins Group use variance approval with a deferral of site plan review to allow conversion of the existing building and property now used as the base of operations of an infrastructure/road construction company to a light woodworking/manufacturing facility for the design and construction of architectural interiors and fine cabinetry, at property located at 1496 Hornberger Avenue, and known on the official Tax Map of the Township of Florence as Block 125, Lot 25;

WHEREAS, the prior applicant's affiliated company, Rant Properties, LLC, has now made application for the site plan review deferred under the prior use variance approval concerning only Lot 25 of Block 125, as well as extension of the prior use variance and current minor site plan application to also encompass adjoining Lot 24 of Block 125;

WHEREAS, a third property, Lot 22.02 of Block 125 was owned and used in common with the two lots which are the subject of this application, but it is not a part of this application (as amended following its initial submission), and following conveyance of Lot 24 and 25 to the applicant, the sole use of Lot 22.02 shall be the cell tower which presently is on that property;

WHEREAS, the applicant is the contract purchaser of the subject property;

WHEREAS, the applicant is represented by John Gillespie, Esquire of Parker McCay;

WHEREAS, upon a finding that the applicant had mailed and published proper notices, the Board opened a public hearing on the application at its April 3, 2023 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 12, 2023 and found the application sufficiently complete to be heard;

WHEREAS, the applicant's owner, Robert Schulz, appeared, was sworn, and offered his testimony in support of the application;

WHEREAS, the applicant's professional engineer, Barry Wham, PE, of Wham Engineering services, Inc., appeared, was sworn, was accepted as an expert in the field of site and civil engineering, and offered his testimony 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 contract purchaser of the subject property, the owner of the property, Keating Realty Group, has consented to the making of this application, and the applicant therefore has standing to bring this application before the Board.

2. The subject property is located at 1496 Hornberger Avenue, in the Florence Township Neighborhood Commercial Zone District, and is known on the official Tax Map of the Township of Florence as Block 125, Lots 24 and 25;
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 extension to Lot 24 of the use variance granted by the Board and concerning Lot 25 to allow conversion of the existing building and property formerly used as the base of operations of an infrastructure/road construction company to a light woodworking/manufacturing facility for the design and construction of architectural interiors and fine cabinetry.
5. Application has also been made for minor site plan approval concerning Lots 24 and 25 to implement the use variance approvals for those Lots.
6. Manufacturing uses are not permitted in the NC Zone District, so a use variance is necessary to permit the proposed use and its extension to Lot 24.
7. Following the Board's prior use variance approval concerning Lot 25 only, the Board accommodated the applicant's immediate need for relocation (as the applicant had lost its lease at its Hainesport location) and allowed the applicant to immediately occupy and use Lot 25. The Board deferred site plan review for six to eight months to allow the applicant sufficient time to have site plan drawings and other application documents prepared that address the Township's zoning, site plan, stormwater and other performance standards ordinances, as well as the negative criteria applicable to site plans submitted pursuant to use variances in accord with NJSA 40:55D-76(b).
8. Approval of the proposed minor site plan would require a design exception to allow omission of a dedicated loading area, a variance to allow a building-mounted sign on a facade other than the front facade, a variance to allow the rear parking areas to remain gravel instead of being paved and a variance to allow the existing office trailer to be less than the required distance from the principal building.
9. In conjunction with commencement of the use, the applicant discovered that the existing septic system was inadequate and arranged with the Florence Township

Water & Sewer Department to connect the site to the municipal water and sewer systems.

10. 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 completed Township of Florence Minor Site Plan Application Checklist of Submission Requirements;
 - d. A Township of Florence Tax Collector's Certification that no taxes were due on the subject property at the time of the application;
 - e. A statement of justification for the requested relief submitted with the Land Development Application form.
 - f. A "Minor Site/Use Variance Plan" prepared by Wham Engineering Services, Inc., Barry Wham, PE dated 10/22/2022 and last revised 02/24/2023;
 - g. A survey plan of the subject property prepared by Wallace Associates, PLS, dated 02/25/2020, revised 09/08/2022, which shows the property outbounds and the locations of improvements;
 - h. A letter dated January 31, 2023 from the applicant's counsel requesting a hearing continuance to the Board's March 6, 2022 meeting date;
 - i. A letter dated February 24, 2023 from the applicant's counsel amending the application to increase the number of storage containers from two to three and eliminate one of the two proposed dumpsters. The letter also conveyed a proposed landscape plan to the Board;
 - j. A letter from the applicant's counsel dated March 6, 2023 explaining reasons to postpone the planned March 6, 2023 hearing and requesting to be heard at the Board's April 3, 2023 meeting;
 - k. A color rendering of the proposed building facade, which was introduced and accepted into evidence in the course of the public hearing as Exhibit A-1;

- l. A photograph of the rear of the subject property and adjoining Lot 22.02 showing the cell tower on that lot, which was introduced and accepted into evidence in the course of the public hearing as Exhibit A-2;
 - m. A photo showing the storage containers, which was introduced and accepted into evidence in the course of the public hearing as Exhibit A-3;
 - n. A photo of the rear of the building on the subject property, which was introduced and accepted into evidence in the course of the public hearing as Exhibit A-4;
 - o. A photo of the front of the building and car parking area on the subject property, which was introduced and accepted into evidence in the course of the public hearing as Exhibit A-5.
11. The Board's Engineer, Hugh J. Dougherty, P.E., C.M.E. of Pennoni Associates, Inc., Consulting Engineers, submitted review letters dated January 12, 2023, January 31, 2023, and March 30, 2023 commenting upon the application, which are hereby incorporated into the record.
12. The Board's Planner, David Benedetti, PP, of Environmental Resolutions, Inc., Engineers, Planners, Surveyors, Scientists, submitted review letters commenting upon the application dated January 24, 2023 and March 2, 2023, which are hereby incorporated into the record.
13. The Township Fire Official, Brian T. Richardson, submitted a review letter commenting upon the application dated March 1, 2023 which is hereby incorporated into the record.
14. The subject property is located within the Roebing Mill Area in Need of Redevelopment, across Hornberger Avenue from the former steel mill and the light rail station. Several of the adjacent properties are owned by Florence Township.
15. As modified prior to the April 3, 2023 public hearing, the application now includes use of Lot 24 for parking and maneuver areas, and the installation of three storage containers and one dumpster in support of the use previously approved only on the Lot 25 part of the subject property. The existing office trailer on the property is now proposed to be used permanently as a conference space and offices.

16. The minor site plan application also includes striping of parking spaces and a drive aisle, installation of wheel stops and installation of landscaping. Existing lighting is proposed to be supplemented with the installation of three downward-directed building-mounted lights are proposed to be added to better illuminate parking areas and drive aisles adjacent to the principal building.
17. One freestanding sign is proposed to be located in the front yard area. This sign will conform to the sign area, lighting and location standards applicable in the NC Zone District. The rendering presented to the Board as Exhibit A-1 shows a single building-mounted sign on the parking lot-facing side of the building. Vegetation would block views of the sign from the Hornberger Ave. facing building facade. This sign (which was initially conceived as temporary), if it remains, will be made to comply with area and lighting standards applicable in the NC Zone District, but a variance is necessary to allow it to be on other than the front facade.
18. The applicant proposes to paint the walls of the storage containers, the office trailer and the principal building a shade of red intended to complement and coordinate with the red brick colors prevailing in Roebing Village. The roofs of all of these structures will be painted an almond color.
19. Mr. Schulz testified that there will be no tractor trailers delivering or picking up from the site. Deliveries of products for installation and drop off of raw materials will continue to be in “straight” trucks like the company’s own 26 ft. box van or by smaller delivery and panel vans. Most loading and unloading is performed at the side of the building in the drive aisle leading to the building’s rear as this area is convenient for forklift access through a side door. There will be no outside storage.
20. Mr. Schulz explained that his hope that the site’s proximity to the light rail station would be useful has been fulfilled, and many of his workers and clients use the rail facility to come and go from the site.
21. Mr. Schultz testified that his entity, Rant Properties, has not yet closed on title to the subject property. Mr. Gillespie stated that his client should not be required to spend more on site improvements until he has closed title to the subject property. It was agreed that if closing has not taken place and the site improvements have

not commenced by July 1, 2023, that the applicant shall communicate with the Board through counsel to explain the delay and reset expectations.

22. Mr. Schultz also testified that he has received no complaints about noise or odors during the approximately six months that his business has been operating at the site. Because the use commenced operations on the Lot 25 portion of the subject property pursuant to the Board's 2022 use variance approval, the Board and community have the singular benefit of experiencing the use on the subject property prior to hearing the present application. Therefore, the complete absence of any negative public comment concerning the use in the course of the public hearing is probative of the veracity of Mr. Schultz's testimony.
23. Board Engineer Dougherty testified that no development is proposed that would trigger an obligation to install new stormwater management facilities.
24. Board Planner Benedetti stated that the proposed landscaping is satisfactory but asked that additional details concerning the proposed walkway dimensions and edge restraints be added to the plan. Mr. Benedetti also testified that the proposed storage containers and dumpsters will not be easily seen by passersby.
25. In the course of the public hearing, the applicant agreed to locate the storage containers and dumpster not less than five feet from the property line and from each other in order to comply with the request of the Township Fire Code Official.
26. Mr. Gillespie argued that the proposed use would advance the goals of the Township's Master Plan to promote economic growth, redevelopment, and access to the light rail system. He further argued that the proposed development would further the purposes of zoning as set forth in NJSA 40:55D-2.
27. Public comment was offered on the application by Kristan Marter of 220 East Front Street who voiced her preference for the use of native plants in the proposed landscaping.

Conclusions of Law

The Board finds that special reasons exist for extension of the use to Lot 24 by way of the proposed use variance pursuant to NJSA 40:55D-70(d)1 because, just as it did on adjoining Lot 25, the proposed use would abate many of the negative externalities of the pre-existing non-conforming heavy construction use of the property, would enhance the aesthetics of the site and building, would provide an opportunity for redevelopment in accord with Township Master Plan goals, and can uniquely exploit the site's proximity to the light rail station.

The applicant has also shown that the proposed use variance and minor site plan approval with bulk variances and a design exception can be granted without substantial impairment of the zone plan and without substantial detriment to the public good. Because there are many residential uses in the vicinity of the subject property (although it most immediately adjoins Township-owned lands), it is critically important that the use perform in accord with the parameters explained by the applicant's witnesses in the course of the several public hearings concerning the use variance applications and the minor site plan. The Board and public are in the peculiar position of having over six months of actual experience with the use in this location. This experience has shown that the use does not pose a substantial detriment to the public good because of noise, odors or traffic. The promised aesthetic and landscape enhancements to the site which are to be implemented through the minor site plan will further integrate the use with the Roebling Village

The applicant has complied with the procedural requirements for the making of its use variance and minor site plan applications.

For these reasons, the proposed use variance and minor site plan 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 Rant Properties, LLC, seeking the site plan review deferred under the prior use variance approval concerning only Lot 25 of Block 125, as well as extension of the prior use variance approval to also encompass adjoining Lot 24 of Block 125, at property located at 1496 Hornberger Avenue, and known on the official Tax Map of the Township of Florence as Block 125, Lots 24 and 25, be, and hereby is, **APPROVED**, subject to the following conditions:

1. The Board has relied upon the testimony of the witnesses and factual findings discussed in the body of this Resolution, and such testimony and findings are incorporated as conditions of this approval as though set forth at length herein.
2. The former use of the overall property encompassing Lots 22.02, 24 and 25 of Block 125 as the base of operations of an infrastructure/road construction company is now abated as to all lots. The sole use of Lot 22.02 shall be for the existing and previously approved cell tower. This arises because the parking of heavy equipment and trucks on Lot 22.02 was previously allowed as accessory to the pre-existing non-conforming use conducted from the principal structure located on Lot 25. Should the owner of Lot 22.02 wish to use that Lot for anything other than the cell tower use, which is now the sole principal use of that Lot, approval of this Board is required.
3. All new lighting shall be downward-directed to minimize offsite light spillage.
4. There shall be no storage of materials and equipment outside of the buildings and storage containers.
5. For safety reasons, the current parking space closest to Hornberger Ave. shall not be used for parking, and shall be striped to signal that it is no longer to be used for parking. If such striping is not sufficient to abate use of this area for car parking, then the paving shall be removed and a landscape area created instead of the paving.
6. One freestanding sign is proposed to be located in the front yard area. This sign will conform to the sign area, lighting and location standards applicable in the NC Zone District.

7. If a single building-mounted sign on the parking lot-facing side of the building remains, it shall be made to comply with area and lighting standards applicable in the NC Zone District, but it may be located on the parking area facade of the principal building.
8. The principal building and storage containers shall be painted in accord with the applicant's testimony and exhibits. After the painting is completed, the visual effect of the containers shall be assessed by the Board Planner who may require the installation of landscaping along the fence line to better screen the containers, dumpster and rear parking area from the view of passers-by.
9. The proposed walkway shall be dimensioned and edge restraints shown on a revised landscape plan.
10. An estimate of probable costs for improvements shall be prepared in order to provide for appropriate inspection escrows.
11. If closing has not taken place and the site improvements have not commenced by July 1, 2023, that the applicant shall communicate with the Board through counsel to explain the delay and reset expectations
12. Compliance with all federal, state, county and local laws, rules, regulations and any other governmental approvals which may be required in implementation of this development, including but not limited to: Florence Township Water & Sewer Department, Florence Township Office of Construction Code Enforcement, and Burlington County Planning Board. Copies of all applications, permits and certifications related to such approvals shall be filed with this Board. The applicant shall pursue with good faith and due diligence any and all additional approvals as may be required.
13. Any additional development on the subject property or any modification to any development pursuant to, or inconsistent with, this approval shall require approval of this Board.
14. If another governmental agency grants a waiver or variance of a regulation, materially deviating from this approval or the conditions attached to it, then this Board shall have the right to review that issue as it relates to this approval and these conditions and modify or amend the same.

15. Compliance by the applicant with Township ordinances, and State laws and regulations, pertaining to non-residential developers' affordable housing obligations, which are applicable to the subject development.
16. Any permits, deeds, easements, vacations, dedications, revised drawings or other documents related to this proposed development shall be approved by the Board attorney and Board engineer and filed with the appropriate authority.
17. All taxes and escrow fees for professional review must be paid current and in full.
18. 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 USE VARIANCE and MINOR SITE PLAN
APPLICATIONS, SUBJECT TO CONDITIONS:**

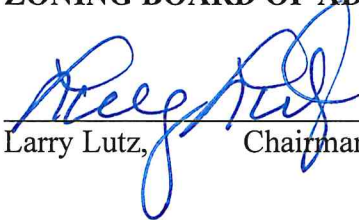
Moved by : Vice Chair Buddenbaum
Seconded by : Mr. Puccio
In Favor : Vice Chair Buddenbaum, Mr. Puccio, Mr. Cartier, Mr. Patel,
Mr. Sovak, Mr. Studzinski, Chairman Lutz
Opposed : None
Recused : None
Absent : None

MOTION TO ADOPT RESOLUTION:

Moved by : Vice Chair Buddenbaum
Seconded by : Mr. Puccio
In Favor : Vice Chair Buddenbaum, Mr. Puccio, Mr. Patel, Mr. Sovak,
Mr. Studzinski, Chairman Lutz
Abstained : None
Absent : Mr. Cartier

**FLORENCE TOWNSHIP
ZONING BOARD OF ADJUSTMENT**

Dated: 5/31/2023

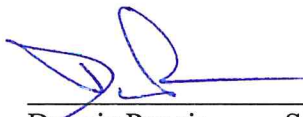


Larry Lutz, Chairman

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 31, 2023 and memorializes a decision taken by the Board on April 3, 2023.

Dated: 5/31/2023



Dennis Puccio, Secretary