

**FLORENCE TOWNSHIP  
ZONING BOARD OF ADJUSTMENT**

**RESOLUTION NO. Z.B.-2020-05**

*Application ZB#2019-12*

**RESOLUTION OF MEMORIALIZATION  
APPLICATION OF  
STEVE KOWALCZYK  
USE VARIANCE  
BLOCK 14, LOT 1  
IN THE NC  
NEIGHBORHOOD COMMERCIAL ZONE DISTRICT  
APPROVAL**

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

**WHEREAS**, Steve Kowalczyk, has made application to the Florence Township Zoning Board of Adjustment seeking use variance approval to allow conversion of an existing building with a first floor bar and two boarding rooms on the second floor into four apartments including two one-bedroom units, one two-bedroom unit and one three-bedroom unit, at property located at 202 Foundry Street, and known on the official Tax Map of the Township of Florence as Block 14, Lot 1;

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

**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 architecture expert, Benedetto Catarinicchia, AIA, appeared, was sworn, was accepted as an expert in the field of architecture, and offered his testimony in support of the application;

**WHEREAS**, Mr. Kowalczyk, appeared *pro se*, was sworn, 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 owner of the subject property, and therefore has standing to bring this application before the Board.
2. The subject property is located at 202 Foundry Street, in the Florence Township Neighborhood Commercial Zone District, and is known on the official Tax Map of the Township of Florence as Block 14, Lot 1;
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 conversion of an existing building with a first floor bar and two boarding rooms on the second floor into four apartments including two one-bedroom units, one two-bedroom unit and one three-bedroom unit. The first floor is proposed to support one three-bedroom unit (of 1,147 sq. ft.) and one one-bedroom unit (of 570 sq. ft.). One one-bedroom unit (of 640 sq. ft.) and one two-bedroom unit (of 855 sq. ft.) are proposed for the second 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. 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 proposed total of four one-bedroom apartment units.
7. There is an existing six foot tall privacy fence at the rear of the subject property (between it and 732 West Second Street) and because the subject is a corner lot, variance relief is necessary to allow this fence to be replaced in kind in the secondary front yard of the subject property.
8. A variance is also required from the requirement that apartments be a minimum of 850 sq. ft. because one is proposed to be 570 sq. ft. and one is proposed to be 640 sq. ft.
9. 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 Zoning Officer’s Certification stating that a use variance is required to allow the proposed use;
  - e. A statement of justification for the requested relief submitted with the Land Development Application form.
  - f. A survey plan of the subject property prepared by William J. Robbins, PLS, dated October 23, 2019, which shows the property outbounds and the locations of improvements;
  - g. A Zoning Analysis comprised of one sheet dated 12-05-2019 prepared by Benedetto Catarinicchia, AIA, of ZACS International, LLC, that includes an aerial view and a series of photographs of the site and surrounding



properties, plan and elevation architectural drawings of the proposed building interior layout and exterior improvements, location and zoning maps, a zoning table, survey excerpt, and general notes.

10. The Board's Engineer, Hugh J. Dougherty, P.E., C.M.E. of Pennoni Associates, Inc., Consulting Engineers, submitted a review letter dated January 20, 2020 commenting upon the application, which is hereby incorporated into the record.
11. 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.
12. Residential uses are allowed above commercial uses in the NC Zone, and residential uses are allowed on nearby properties which lie in the RB and RC Residential Zone Districts.
13. 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 8 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. There is sufficient frontage along Foundry and West Second Streets that most, if not all vehicles of residents of the proposed apartments could park along the frontage of the subject property.
14. The proposed apartment use with a theoretical demand of 8 parking spaces actually requires substantially less parking than the existing bar (which the applicant's architect testified could have up to 90 patrons at one time) and rooming use. The reduction in demand for on-street parking is therefore a substantial special reason to support the proposed use variance

15. The subject property is particularly suited to the proposed use because of its small size and because the general character of its surroundings is more residential than commercial.
16. One ground-floor unit will be ADA adaptable, and the applicant proposes to replace all sidewalks in the vicinity of the building. Trash and recyclables will be contained in a small enclosure at the rear of the building that will be accessible from West Second Street.
17. Building-mounted motion-activated lighting is proposed.
18. The existing chain link fence along the West Second Street frontage is proposed to be removed.
19. Public comment was offered on the application by: Keith Crowell of 74 Creekwood Drive, whose principal concerns were that lighting be provided and that there continue to be a 6 ft. tall privacy fence between his 732 West Second Street property and the subject property; and by Yemisi Cokel of 737 West Second Street whose principal concern is for the sufficiency of on-street parking in the neighborhood and who is supportive of the proposed lighting. Both commented favorably on instituting residential use of the subject property.

### 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 the essentially residential character of the subject property's surroundings, and in the very significant decrease in the demand for on-street parking that will result from eliminating the existing bar and rooming uses

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 many residential uses in the vicinity of the subject, it is difficult to find much impairment of the zone plan in addition of a residential apartment use, and abatement of the issues presented by the existing bar use will actually be more in conformity with the development standards of the NC Zone. Any impairment of the zone plan is therefore not substantial. The principal impact of proposed development on the public good is a significant reduction of the parking demand over that of the existing 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.

The existing privacy fence between the subject property and 732 West Second Street serves a useful screening function for both properties and should be allowed to continue.

For these reasons, the proposed use variance, bulk variance to allow replacement in kind of the existing privacy fence, 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 Steve Kowalczyk, seeking use variance approval to allow conversion of an existing building with a first floor bar and two boarding rooms on the second floor into four apartments including two one-bedroom units, one two-bedroom unit and one three-bedroom unit, at property located at 202 Foundry Street, and known on the official Tax Map of the Township of Florence as Block 14, Lot 1, be, and hereby is, **APPROVED**, subject to the following conditions:

1. The proposed building-mounted lighting shall be downward directed cut-off type fixture. The applicant shall submit manufacturers' specification sheets to the Board Engineer, and a post-construction lighting level check shall be performed by the Municipal Engineer to confirm that there is no offsite spillage.
2. Administrative review and approval by the Board's Planner and Engineer of the proposed trash/recyclables enclosure.
3. The applicant shall work with Township officials to assure compliance with the Township recycling ordinance.
4. Administrative review and approval by the Board's Planner of the proposed finishes of the building elevations.
5. Any construction at the building exterior beyond the current building footprint that is necessary for fire code compliance shall be subject to administrative review and approval by Administrative review and approval by the Board's Planner and Engineer.
6. There shall be no increase in the bedroom count or allocation, or the number of dwelling units, without further approval of the Board.
7. All taxes and escrow fees for professional review must be paid current and in full.
8. 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:**

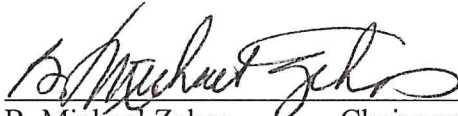
Moved by : Lutz  
Seconded by : Buddenbaum  
In Favor : Lutz, Buddenbaum, Cartier, Mattis, Patel, Sovak, Zekas,  
Opposed : None  
Recused : None  
Absent : Mount

**MOTION TO ADOPT RESOLUTION:**

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

**FLORENCE TOWNSHIP  
ZONING BOARD OF ADJUSTMENT**

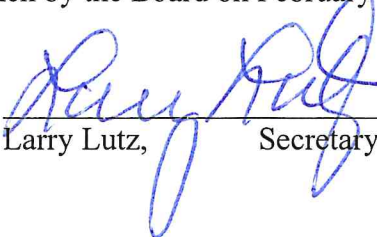
Dated: 3/2/2020

  
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