

Resolution No.: 6 – 14

**RESOLUTION OF THE BOROUGH OF CLAYTON PLANNING BOARD
GRANTING A USE VARIANCE WITH
PRELIMINARY AND FINAL SITE PLAN APPROVAL
FOR BLOCK 1902, LOTS 23.01 and 24
(952 North Delsea Drive)
APPLICANT – CANDY CAROUSEL EAST, LLC**

WHEREAS, the Applicant, Candy Carousel, LLC of 952 North Delsea Drive, Clayton, New Jersey, submitted an application seeking use variance relief with preliminary and final site plan approval; and

WHEREAS, Gregory Ruggeri, a principal in Candy Carousel, LLC, appeared before the Board on December 18, 2013 and was represented by Dennis L. Riley, Esquire of Riley & Shovlin, P.A., located at Valleybrook Country Club, 200 Golfview Drive, Blackwood, New Jersey; and

WHEREAS, the Board constituted itself as a Zoning Board of Adjustment since the requested relief requires, inter alia, use variance relief to permit a non-conforming use and the expansion of a pre-existing non-conforming use; and

WHEREAS, the Applicant presently operates a vending and massage chair business at the subject location of 952 North Delsea Drive known as Block 1902, Lots 23.01; and

WHEREAS, the Applicant enjoying good success with the existing vending and massage chair businesses intends to retain the two (2) existing storage type buildings and proposes to construct three (3) flex buildings having floor areas of: Building 1 – 6,000 square feet, Building 2 – 7,700 square feet, and Building 3 – 5,950 square feet with an open area in the rear of the site dedicated to rental storage for recreational vehicles and boats; and

WHEREAS, in support of their application proffered the testimony of Alan J. Ippolito, P.E. of Consulting Engineer Services with offices at 645 Berlin-Cross Keys Road, Suite 1, Sicklerville, New Jersey, Candace A. Kanaplue of Bach Associates, LLC with offices at 304 White Horse Pike, Haddon Heights, New Jersey 08035, Sean Gill as owner of intended

landscaping business on the subject site and Lou Caciola as owner of intended masonry business on the subject site; and

WHEREAS, in further support of this application, the Applicant has submitted a Use Variance/Preliminary and Final Site Plan consisting of twelve (12) sheets dated November 21, 2013 and signed and sealed by Alan J. Ippolito, P.E.; and

WHEREAS, in further support of this application, the Applicant has submitted: **1.** Phase 1 Environmental Site Assessment prepared by Consulting Engineer Services dated November 18, 2018, **2.** Traffic Assessment prepared by Consulting Engineer Services dated September, 2013, **3.** Stormwater Management Report prepared by Consulting Engineer Services dated November 21, 2013; and

WHEREAS, in support of this application the Applicant relied on the following exhibits: **1.** CC – 1 is Color Aerial Photograph of the subject site, **2.** CC – 2 is five photograph array of the proposed pre-engineered buildings; and

WHEREAS, Lot 23.01 is 4.16 acres and Lot 24 is 9.987 acres; and

WHEREAS, the subject lots are zoned HB (Highway Business) which does not permit the existing and intended uses, but the subject site is within the Delsea Drive Rehabilitation Zone with a plan for revitalization being developed during the pendency of the instant application; and

WHEREAS, all of the principal improvements are to be constructed on Lot 23.01 with Lot 24 to provide temporary construction access and permanent easement for stormwater management; and

WHEREAS, due to the unique shape of Lot 23.01 (flag lot) a number of bulk variances are requested as outlined in the Applicant's submissions and the Board's professional review letters with those bulk variances requested being granted by the Board; and

WHEREAS, the proposed improvements will enable the Applicant to exploit the undeveloped portions of his property while offering needs amenities to the community; and

WHEREAS, from a planning perspective there was testimony that the subject site: **1.** The site is adjacent to commercial and industrial uses, **2.** This is an area in the process of being designated for redevelopment, **3.** Enhances development of land outside of town center, **4.** The subject site did permit a warehouse use when purchased by the Applicant, **5.** Expansion of use and proposed development of the site will not significantly increase motor vehicle traffic (no retail sales), **6.** The subject site is a flag lot which well conceals the flex space and RV/Boat storage, and **7.** The community's appearance may be enhanced by providing citizens a place to store their RV's and boats other than in their yard; and

WHEREAS, the Board, in light of the foregoing testimony and in consultation with the Board's planner, agreed that the Applicant has addressed the special reasons and promotion of the general welfare of the community as the basis for the grant of a use variance; and

WHEREAS, the grant of the requested use variance does not adversely impact the zone and zone plan and further results in a superior utilization of a parcel in concert with an existing business and proposed businesses with a net benefit to the community; and

WHEREAS, the subject site is located in a Wellhead Protection Area and this area is of paramount concern to the Borough of Clayton and it was made abundantly clear to the Applicant that all activities contemplated for the subject site shall first and last be considered in the context of any possible adverse impact on the Wellhead Protection Area; and

WHEREAS, the Board in reviewing the application and submissions and questioning the Applicant and their representatives and as a result the Applicant has adduced and/or agreed to the following: **1.** There is to be no signage to be added to site that does not comport with Clayton Ordinances, **2.** The Applicant has acknowledged the Board Planner's and Engineer's review letter and shall comply with the comments contained therein, **3.** The Applicant shall provide to the Board solicitor and engineer for review permanent cross-easements between Lots 23.01 and Lot 24 for the purpose of drainage and stormwater management, **4.** The Applicant shall "clean up" the existing Quonset huts, **5.** Install a masonry trash enclosure on Lot 23.01, **6.** The Applicant, **7.** There shall be no retail sales on the subject site by anyone as the landscaping and mason are using the site for staging and storage associated with their business while the

Applicant shall only have individuals on-site to enter into lease agreements for RV/Boat storage, **8.** No hazardous materials to be stored other than those pesticides and herbicides used as part of the landscaping business with all excess pesticides and herbicides to be used on an as needed basis as quickly as possible, **9.** The Applicant shall propose a curbed area for the storage of pesticides and herbicides and any other potentially hazardous substances subject to review and approval by the Board's professionals – Wellhead Protection Area, **10.** The landscaping business requires approximately six (6) parking spaces and all equipment shall be stored inside with no vehicles repairs on the subject site and all fueling shall be done off-site, **11.** The masonry business requires approximately two (2) parking spaces and all equipment shall be stored inside with no vehicles repairs on the subject site and all fueling shall be done off-site, **12.** The Applicant is not required to provide sidewalk as there are no retail sales, **13.** The Applicant shall provide a fence around the RV/Boat storage area for security, **14.** The Applicant understands that there shall be no RV and/or Boat repairs on-site, **15.** The Applicant shall work with the Board professionals to develop a plan for the areas to be paved, how recyclable material is handled and how solid waste material is handled, **16.** The Applicant shall abandon and seal old wells on-site and the septic system shall be removed, **17.** The Applicant shall develop striping and/or sidewalk along roadway areas so people don't walk out of a building and get hit by a vehicle, **18.** There shall be no on-site concrete storage, **19.** The hours of operation for all businesses shall be between the hours of 6:00 a.m. and 7:00 p.m., **20.** The Applicant is granted from providing "loading bays" as there is no need for them, **21.** The Applicant is granted variance for imperious coverage as Board wants generous concrete paving (not asphalt or gravel) to aid in safeguarding the Wellhead Protection Area, **22.** The landscaping business shall provide a regular schedule of removing clippings and yard waste from the site with no materials remaining in excess of one week before being removed, and **23.** Any other issues that develop may be addressed between the Applicant and the Board professionals that are of an administrative or minor nature; and

WHEREAS, members of the public were permitted to speak on the application at the regularly scheduled Planning Board Meeting held on December 18, 2013 and no one appeared to be heard; and

WHEREAS, the Board has considered the report dated December 9, 2013 from Remington & Vernick as prepared by George R. Stevenson, Jr., P.P., AICP, the Board's professional planner, said professional review letter is incorporated and made a part herein; and

WHEREAS, the Board has considered the report dated December 17, 2013 from Sickels & Associates as prepared by Steven G. Weber, P.E., C.M.E., the Board's professional engineer, said professional review letter is incorporated and made a part herein; and

WHEREAS, the Board has carefully considered all the documents submitted and the testimony of the witnesses and members of the public;

WHEREAS, the application for use variance and bulk variance relief together with preliminary and final site plan approval was granted by the Borough of Clayton Combined Planning and Zoning Board of Adjustment, by a 7 yes to 0 no vote.

NOW, THEREFORE, BE IT RESOLVED by the Borough of Clayton Planning Board constituted as a Zoning Board of Adjustment, that it does hereby **Approve** the grant of use and bulk variance relief with preliminary and final site plan approval to permit the hereinbefore detailed improvements to the existing warehousing business on Lot 23.01 together with related site improvements and a stormwater management basin with all necessary and requested variances and waivers, and grants this use and bulk variances with preliminary and final site plan approval as set forth herein, subject to and contingent upon the following:

1. Compliance with the Engineer's report, Sickels & Associates, Inc., dated December 17, 2013, all of which is incorporated herein by reference; and
2. Compliance with the Planner's report, Remington & Vernick, dated December 9, 2013, all of which is incorporated herein by reference; and

3. The Applicant agrees to comply with and perform all obligations as stated above herein in the body of this Resolution.

5. The Applicant obtaining all required approvals/waivers from all outside agencies.

6. Applicant and owner are reminded that site safety is their responsibility. It should be noted on the plan that “The owner or his representative shall designate an individual responsible for construction site safety during the course of site improvements pursuant to N.J.A.C. 5:23-2.21(e) of the N. J. Uniform Construction Code and CFR 1926:32(f) (OSHA Competent Person)”.

7. Applicant shall meet any and all COAH and/or Fair Share Growth Obligations.

8. Applicant shall post and provide all Performance and Maintenance Guarantees and Bonds together with Inspection Escrows.

9. Final approval shall be subject to the following **(if required)**:

(A) Documentation of final approvals by: (1) Gloucester County Planning Board; (2) Gloucester County Soil Conservation District; (3) Borough of Clayton Township Fire Code and Police Officials (as to approved emergency vehicle access plan); (4) NJDEP wetlands permit; and (5) Stream Encroachment permit; and (6) any other required Local, County and State approvals, if applicable.

(B) Any and all provisions as required by previous resolution shall be satisfied and incorporated into this resolution as if fully set forth herein.

(C) Engineering, planning and testaments as submitted by the Applicant have been accepted, and any changes set forth by the Applicant shall be subject to review by the

Borough of Clayton Combined Planning and Zoning Board of Adjustment and its professionals, with subsequent approval being required and as a condition of final approval.

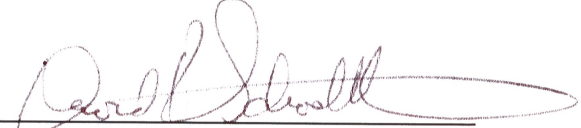
(D) Any landscaping to be provided and any amendments thereto shall be approved by the Township's Engineer/Planner.

(E) Any on-site hazardous conditions shall be eliminated in accordance with NJDEP regulations and requirements.

BE IT FURTHER RESOLVED, that certified copies of this Resolution shall be forwarded to the applicant, Borough Clerk, Borough Construction Official, Borough Tax Assessor, and the Borough Zoning Officer.

THIS RESOLUTION DULY ADOPTED at a regular meeting of the Borough of Clayton Planning Board held on Wednesday, January 27, 2014.

**Borough of Clayton Combined Planning Board
And Zoning Board of Adjustment**


By: David Schoellkopf, Chairman

Attest:


Debbie A. Schlosser, Secretary