

**Resolution No.: 09-2022**

**RESOLUTION OF THE BOUROUGH OF CLAYTON LAND USE BOARD  
GRANTING USE & BULK VARIANCE RELIEF WITH MINOR SITE PLAN  
RELIEF**

**FOR BLOCK 1001, LOT 30**

**APPLICANT – BROTHERS AUTO CENTER, LLC**

**WHEREAS**, the Applicant, Brothers Auto Center, LLC of 600 S. Delsea Drive, Clayton, New Jersey, 08312, submitted an application seeking a use and bulk variance relief together with minor site plan approval and appeared for a hearing before the Clayton Land Use Board on Monday May 23, 2022; and

**WHEREAS**, since this application contains a request for use variance approval the Clayton Land Use Board was constituted as a Zoning Board of Adjustment to hear this matter; and

**WHEREAS**, the subject property is located on the corner of the west side of Delsea Drive and the south side of Jerrys Avenue (CO Zoning District), with approximately 140 feet of frontage on Delsea Drive and 111 feet of frontage on Jerrys Ave. The lot contains 15,580 square feet or 0.358 acres and is particularly described as Block 1001, Lot 30 and is owned by Rocky Associates LLC, of 573 Delsea Drive, Sewell, N.J. 08080; and

**WHEREAS**, the Applicant is seeking use variance relief to permit not only the repair and maintenance of used cars it maintains for sale, but also for hire repairs for the general public on vehicles not owned by the Applicant and the integration of a transmission repair business presently located in Burlington County, New Jersey; and

**WHEREAS**, there is presently an existing used motor vehicle dealership on the lot in the southwest corner of the property facing the northeast direction at a 45-degree angle, and contains 33 spaces for retail vehicles as well as 13 spaces for customers and employees including 1 handicap space. The owner seeks a use variance to concurrently use the property as a transmission repair facility as well as a used car dealership; and

**WHEREAS**, the proposed site plan encompasses a 2-bay auto repair facility as well as the presently existing office for the repair facility and auto sales. The Applicant is also requesting variance relief to allow parking in the front yard and the side yard, and requesting relief from providing 3-foot-wide landscape buffers between parking areas and property lines, as well as bulk variances for existing non-conforming conditions; and

**WHEREAS**, the Board's engineer, Stan Bitgood, P.E., C.M.E., appeared before the board and was duly sworn; and

**WHEREAS**, Paul Daroshefski as a contract purchaser for the subject site was represented by Brian Hall, Esquire and further adduced testimony from Jay Sims, P.E.,

C.M.E, P.P., the Applicant's professional planner as well as the applicant's engineer Katie Daroshefski, P.E. both of whom were present and duly sworn; and

**WHEREAS**, the Applicant's attorney, Brian Hall, Esquire, testified that the addition of a transmission repair operation would not involve any additional lots beyond the subject Block 1001, Lot 30; and

**WHEREAS**, Jay Simms P.E., P.P., testified in his capacity as a professional planner stating that the site has served as a car lot since 1985 and that the space is particularly well suited for a used car dealership and repair shop and the outlook for future for business is strong, and the proposed plans to improve the site present no negative impact to the Zone or Zone Plan; and

**WHEREAS**, the minor site plan reflects a 6' high wood stockade fence along the common lines of lots 30.01 and 31. As well as 15 evergreen trees planted along the property line of lot 30.01. The trees and fence would act as a screen separating the RB zone from the auto lot; and

**WHEREAS**, the minor site plan shows that Jerry's Avenue will be blocked by 3 onsite parked cars as well as a chain connected by concrete bollards; as well as a 24-foot wide concrete apron on the southeast corner of the lot connecting to Delsea Drive. The Applicant understands they have to have approval from N.J.D.O.T.; and

**WHEREAS**, there was dialogue that identified other businesses along Delsea Drive that currently sell used motor vehicles and offer repair services to the general public that have existed in a safe and productive fashion for some years; and

**WHEREAS**, the Applicant addressed that the additional business would not result in a significant increase in traffic to the site or a use of space beyond the lot's capabilities. Paul Daroshefski testified that he owns a transmission repair shop in Burlington County that is more than double the size of the lot on 600 South Delsea Drive. Mr. Daroshefski assured the Board that his business would schedule vehicles so that only approximately 10 to 15 vehicles would be onsite for transmission repairs at any given time; and

**WHEREAS**, the Applicant's engineer Katie Daroshefski, P.E., testified that there shall not be any large car carrier type delivery trucks utilized at the site, only individual vehicle transport or small carriers of a car or two if required; and

**WHEREAS**, Stan Bitgood, P.E., the Board's engineer addressed the use of a 40 foot long by 8-foot-wide and 8-foot-high shipping container located at the rear of the existing building. These containers are not favored and are not permitted by Clayton Ordinance. Mr. Bitgood inquired how the shipping container was incorporated into the business and explored how the Applicant could move forward without the need for such a container. The Applicant was clear that their resources are limited and the sense is that the two brothers are consolidating their efforts to have a more profitable future; one in auto sales and repairs and the other in transmission repairs. The Board saw its way to permit the container premised on certain things being addressed. Presently, the container is used for car parts. Going forward as a condition of this approval the following shall occur regarding the container: 1. No liquids or fuels shall be stored in the container,



2. The container shall become a permanent improvement and shall be anchored to the ground by the end of calendar year 2022, 3. The Applicant shall secure the services of a Registered Architect to ensure that the container's "look" shall coordinate and complement the existing office building onsite, 4. The Applicant shall work with the Board's professionals to explore whether the container can be relocated to increase the present side yard setback of approximately 2 feet; and

**WHEREAS**, Mr. Daroshefski testified that the Clayton Fire Marshall inspected the shipping container and asked that a fire extinguisher be placed inside; and

**WHEREAS**, Mr. Daroshefski further testified that all waste oils and liquids shall be collected every few weeks or so by a licensed company authorized to properly dispose of such materials and Jay Sims, P.E., P.P., reinforced that the NJDEP has strict rules on how such materials must be handled at this, or similar type, sites; and

**WHEREAS**, Applicant testifies that site plan will be updated to include new plan details for lighting. The Applicant confirmed at the Board's request that all flood lights shall be removed and lighting is to be reduced at night but motion detectors may be installed in the future. Light poles from which flood lights are removed may remain so as to be used for motion sensors or LED lighting with shields. Applicant agrees to repair the asphalt sidewalks as needed on Jerry's Avenue and Delsea Drive. Applicant agrees to install concrete depressed curbing along Delsea Drive with a handicap ramp for ADA compliance, as well as parking lot to be re-striped. The site plan shall be amended to include truck turning radius for site use; and

**WHEREAS**, the Applicant understands that significant use and bulk variance relief is being granted by the Board and accordingly has agreed to work with the Board professionals to ensure that site lighting, landscaping, sidewalks and curbing, along with the storage container improvements are in keeping with sound and safe operations at this site; and

**WHEREAS**, Mr. Bitgood adduced at the hearing that there is an interior drain inside of the automobile repair area. This is a problem and as a condition of approval, the Applicant has agreed that any drain in the repair area shall be permanently plugged and failure to do so and maintain the drain as plugged would violate the terms of this approval; and

**WHEREAS**, due to cost concerns and available funds, the Board herein permits the Applicant to have until the end of calendar year 2022 to complete all improvements herein referenced or called out; and

**WHEREAS**, in further support of the application, a use variance site plan was presented by the applicant: An original November 30, 2021 signed and sealed by Jay Sims P.E. P.P. of Consulting Engineer Services, as well as a revised plan dated May 04, 2022 signed and sealed by Katie Daroshefski P.E. of Consulting Engineer Services was submitted as well; and

**WHEREAS**, Clayton Fire Department Chief David Rehm requires and the Board makes said requirements a condition of this approval that: 1. Site address numbers shall be clearly visible and reflective, 2. A Knox box with keys shall be installed on the

premises, **3.** Any hazardous waste or bulk fluids shall be labeled, and **4.** The entrances to the property shall never be blocked in such a way as to limit access for emergency vehicles and apparatus; and

**WHEREAS**, members of the public were permitted to speak on the application at the regularly scheduled Land Use Board meeting held on Monday May, 23, 2022 and no members of the public appeared; and

**WHEREAS**, the Board has considered and incorporates herein at length the review letters of Stan Bitgood, P.E., the Board Engineer and Paul D. Breier, P.P, the Board Planner; and

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

**WHEREAS**, the application for the grant of use variance and bulk variance relief together with minor site plan approval is hereby granted by the Borough of Clayton Combined Planning and Zoning Board of Adjustment sitting as a 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 use and bulk variances and minor site plan contingent upon the following:

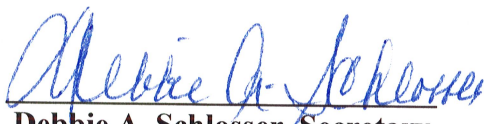
1. Compliance with all requirements as hereinbefore stated.
2. Applicant must secure any and all outside approvals for the project.

**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 Monday, June 27, 2022.

**Attest:**

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

  
Debbie A. Schlosser, Secretary

  
By: Joe Abate, Chairman

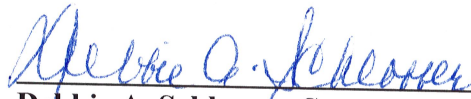


### ROLL CALL VOTE

THOSE IN FAVOR	<u>8</u>
THOSE OPPOSED	<u>0</u>
THOSE ABSTAINED	<u>0</u>

### CERTIFICATION

I hereby certify that the foregoing Resolution is a true copy of a Resolution adopted by the Borough of Clayton Combined Planning Board and Zoning Board of Adjustment at a regularly scheduled meeting of the Board held on June 27, 2022 at the Borough of Clayton Municipal Building, 125 Delsea Drive, Clayton, New Jersey 08312 at 7:00 p.m. and memorializes the decision reached by said Board on the herein application at the Board's May 23, 2022 meeting and public hearing.

  
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Debbie A. Schlosser, Secretary