



April 16, 2020

Donna Heffley, Board Secretary
Egg Harbor City Planning Board
500 London Avenue
Egg Harbor City, NJ 08215

**Re: A+M Linen LLC
Use Variance and Site Plan Waiver
Block 52.07, Lots 1 & 2
1602-1648 White Horse Pike
Egg Harbor City, Atlantic County, New Jersey
Land Use Board Application No. 20-01 PB
Our File: 0107P133**

Dear Board Members:

We have received and reviewed the following information for the above referenced project:

1. Planning Board Application No. 20-01 PB dated 3-17-20.
2. Undated/unsigned plan of the building, with building units delineated by letter and number for loft and ground floor units respectively. The currently proposed unit allocations are delineated in color. This plan appears to have originally been prepared by R. Egrie in December of 1996 and the colored delineation of units appears to have been added for this application.
3. A letter from Mr. Steve Hadley on behalf of the Egg Harbor City Zoning and Land Use Board to Mr. George Egrie. This letter is undated but appears to have been sent near the end of January 2020.
4. Egg Harbor City Zoning Board of Adjustment Resolution #2 – 1998 approving a previous use variance for the site.
5. Egg Harbor City Zoning Board of Adjustment Resolution #6 – 2015 approving a previous waver site of site plan.
6. Egg Harbor City Zoning Board of Adjustment Resolution #6 – 2017 approving a previous use variance and amended preliminary and final major site plan approval, together with a design waiver/exception.
7. Letter from Kertz Autobody and Restorations LLC requesting extension of TCO for his facility. The letter is undated but marked 4/1/18.
8. Egg Harbor City Land Use Board minutes dated December 19, 2017. Application #17-06 LUB Theatre Park Productions was the third application heard that evening.
9. Review letter for Application #17-06 from Tim Michel of Timothy D. Michel, Inc. dated December 12, 2017
10. Letter from Swiderski Associated dated 12-13-17 responding to Engineering and Planning comments from the Board professionals.
11. Letter dated for application #17-06 from Ryan A. McGowan of Remington and Vernick Engineers, dated December 16, 2017.

12. Certification of Property Tax Status from the Egg Harbor City tax office dated 2/14/20.
13. Notarized Form of Proof of Service dated 2/28/20 with certified mail receipts dated 2/27/20.

Based upon our review of the above referenced materials and information from past applications at the site we offer the following:

Property History

A 1998 use variance granted approval for the site as light industrial and storage with up to four tenants in the building. A site plan was not considered at that time. A 2015 approval for a use variance for Kertz Auto Body allowed for a tenant conduct an auto body and restoration business in a portion of the building (Areas 2, 3, and 4 on the provided plan). A 2017 approval for a linen supply business (storage and distribution only) to operate (Area 1 on provided plan) requires any new tenant to comply with the uses permitted in the H-C zone or to seek a use variance. A pool manufacturer was also included in the 2017 application but that use was carried past the initial hearing and ultimately approved as a fourth tenant in early 2018. This approval included conditions for when a fourth simultaneous use was opened but it does not appear that ever occurred. Blast liquidators applied to the Board as a fourth simultaneous non-permitted use in 2019 and the application was ultimately abandoned. It is important to note that the 1998 approval for light industrial fabrication and storage were vacated with the subsequent applications in 2015, 2017, and 2019.

The property is still approved for four simultaneous uses but each new tenant must either comply with the Highway Commercial zone requirements or be substantially similar in operations and location to a previously approved non-permitted use. It has been well established with the current property owner that any new tenant who does not meet one of those two criteria must come to the board for a use variance.

General

The site is located on the south-west side of US Route 30 between Bremen Avenue and Baltimore Avenue with 600' of frontage on US Route 30 and 600' of frontage on Bremen Avenue, Baltimore Avenue, and Atlantic Avenue.

The applicant is seeking a use variance for the relocation and expansion of a previously approved non-permitted use within the existing building. The subject property currently has a use variance that allows for the continued operation of two of the existing businesses (Earl Girls and auto restoration) in their current locations. The applicant is proposing to relocate another approved use (linen storage and distribution) which is currently approved for operation in a specific area of the building. The applicant is now proposing to relocate the approved use from its currently approved location in Area 1 (a portion of unit 4) to Areas 7 and 8 (unit 1) as shown on the plan included with the application.

The applicant proposes to operate a linen storage and distribution warehouse in a ±8,995 SF portion of the existing building identified as Areas 7 and 8 which has access, through the fenced in yard, to Bremen Avenue. A substantially similar use was previously approved by the board for the occupation of Area 1 on the provided plan. Area 1 is approximately 4,500 SF and has direct access to Baltimore Avenue. The proposed relocation of this use will nearly double the approved floor area for the use and change the primary access to the use from Baltimore Avenue to Bremen Avenue.

The applicant indicates that the site is currently serviced by public water and public sewer.

Zoning

The site is located in the Highway Commercial (H-C) Zone.

H-C Highway Commercial Zone

Control	H-C Zone Requirement	Proposed	Status
Minimum Lot Area	15,000 SF	360,000 SF or 8.26 acres	Conforms
Minimum Lot Width	100'	600'	Conforms
Height	4 story, 60'	1 story	Conforms
Front Yard Setback, White Horse Pike	50'	29.6'	Existing
Front Yard Setback, Bremen and Baltimore	50' Each	26.2' Baltimore	Existing
Front Yard Setback, Atlantic	50'	>50'	Conforms
Max Building Coverage	30%	11.5%	Conforms

- C Denotes Conforms
- DNC Denotes Does Not Conform

Completeness

Given the nature of the application (Use Variance and Site Plan Waiver), traditional completeness items for engineering review are not applicable.

Technical Review

The application does not propose any site improvements and the site has previously received site plan approval so a technical review is not applicable for this application.

Variiances

Use Variance – NJSA 40:55D-70d(1):

As noted above, the proposed use is not permitted in the Highway Commercial zone. An application for a “d” variance must demonstrate that the site is particularly well suited for the use and that the positive and negative criteria are satisfied. The specific criteria that must be addressed is found in NJSA 40:55-D-70d(2) to allow expansion of a nonconforming use.

In order for the Board to grant a ‘d’ variance, the applicant must demonstrate, to the Board’s satisfaction, that special reasons exist in support of such action; this is known as the positive criteria. Very broadly, there are sufficient special reasons to grant a ‘d’ variance where a proposed project carries out a purpose of zoning or the refusal to allow the project would impose an undue hardship on the applicant. These broad categories of special reasons are described in turn.

The applicant must also demonstrate, to the Board's satisfaction, that such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and zoning ordinance; this is known as the negative criteria.

Again, both the positive criteria and the negative criteria must be satisfied for the Board to grant the requested 'd' variance.

A variance under this subsection shall be granted only by affirmative vote of a least five (5) members of the seven (7) member configuration of the Board.

Additionally, if the Land Use Board approves the expansion of a nonconforming use; Pinelands will need to review the decision before the decision may become effective.

Positive Criteria

The Municipal Land Use Law (NJSA 40:55D-2) enumerates the purposes of zoning as follows:

- a. *To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare;*
- b. *To secure safety from fire, flood, panic and other natural and man-made disasters;*
- c. *To provide adequate light, air and open space;*
- d. *To ensure that the development of individual municipalities does not conflict with the development and general welfare of neighboring municipalities, the county and the State as a whole;*
- e. *To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment;*
- f. *To encourage the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies;*
- g. *To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens;*
- h. *To encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight;*
- i. *To promote a desirable visual environment through creative development techniques and good civic design and arrangement;*
- j. *To promote the conservation of historic sites and districts, open space, energy resources and valuable natural resources in the State and to prevent urban sprawl and degradation of the environment through improper use of land;*

- k. *To encourage planned unit developments which incorporate the best features of design and relate the type, design and layout of residential, commercial, industrial and recreational development to the particular site;*
- l. *To encourage senior citizen community housing construction;*
- m. *To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land;*
- n. *To promote utilization of renewable energy resources; and*
- o. *To promote the maximum practicable recovery and recycling of recyclable materials from municipal solid waste through the use of planning practices designed to incorporate the State Recycling Plan goals and to complement municipal recycling programs.*

In order to satisfy the positive criteria, the Board can only consider special reasons which promote these general purposes of zoning. Additionally, and alternatively, special reasons may be demonstrated by proof of undue hardship, that is, that the property at issue cannot reasonably be developed with a conforming use.

Negative Criteria

By definition, the requested 'd' variance constitutes a departure from and impairment of the zone plan. In order to satisfy the negative criteria required for 'd' variance relief, the Applicant must demonstrate that such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan. This can be accomplished by demonstrating that any detriment to the public good resulting from the variance proposal will be outweighed by the benefits derived therefrom.

Submitted Justification

The applicant has not submitted any information addressing the positive or negative criteria. These requirements should be addressed by the applicant's professionals through testimony at the hearing.

General Comments

1. The applicant should provide a thorough description of the proposed use including a description of the daily operations at the facility, hours of operation, number of employees, types of trucks used for delivery, number of daily delivery trips, etc.
2. The applicant should clarify whether laundry facilities (i.e. washers and dryers) are proposed in this facility, either now or in the future. The applicant is reminded that any significant deviations from the use as described in the application and through testimony will require the applicant to come back to the board for amended approval.
3. The applicant and/or property owner should clarify whether there is a proposed use for Unit 4 (Areas 1, 2, & 3)
4. The applicant should provide testimony as to the number of tenants that will occupy the building if the new use were to be established.

5. The applicant should provide testimony as to whether they intend to install the proposed sidewalk and shade trees at this time, as is required with the establishment of a fourth tenant.
6. The applicant should address the status of all conditions from prior approval resolutions. This should include outdoor storage of vehicles and materials, installation of landscaping (specifically 46 shrubs), painting the building, and all other relevant conditions of prior approvals.

Other Approvals

Any Board approval should be conditioned upon approval from all other governmental agencies having jurisdiction.

Recommendations

If the Board is satisfied with the submitted information and Applicant's testimony, five members of the seven member configuration of the Board would need to vote affirmatively to approve a Use Variance. Voting affirmatively would be voting to allow the previously approved laundry use to be expanded and relocated within the building, as described above. This would commonly be referred to as a d(2) Use Variance for the Expansion of a Non-Conforming Use.

This report is submitted for the April 21, 2020 Zoning Board meeting.

We may have further comments pursuant to testimony presented at the public hearing or the receipt of revised plans.

Should you have any questions, comments or require additional information, please do not hesitate to contact me at our Pleasantville office (609-645-7110 x1307) at your convenience.

Very truly yours,

REMINGTON & VERNICK ENGINEERS



Ryan A. McGowan, PE, PP, CME

cc: Egg Harbor City Land Use Board Members
Elias Manos, Esq., Planning Board Solicitor
A+M Linen c/o Michael Maffei, Applicant
Juliana Petito, Esq., Applicant's Attorney
Thomas D'Arigo, TJD Architects and Engineers, Applicant's Engineer
George Egrie, Property Owner