

RESOLUTION NO. 2020-05

PILESGROVE TOWNSHIP PLANNING BOARD

RESOLUTION GRANTING A USE VARIANCE

TO

JPB PROPERTIES, LLC

RE: BLOCK 80, LOT 2.01

APPLICATION NO.: 2020 001

WHEREAS, an application was filed with the Pilesgrove Township Planning Board, hereinafter called the "Board" by JPB Properties, LLC, whose address is 270 Perkintown Road, Perkintown, NJ 08067, hereinafter the "Applicant" for a use variance to allow for the construction of an approximately 15,000 square foot "professional office building" on approximately 5.7 acres in the AR-2 Zone on property that Applicant has under contract with owners, Albert A. and Hilda F. Lewis, who have provided an Affidavit of Ownership wherein they consent to the application for a use variance regarding their property, known as Block 80, Lot 2.01, on the official Tax Maps of the Township of Pilesgrove, hereinafter the "property", which property is more particularly depicted on a Project Based Map, dated February 5, 2020, signed and sealed by Robert J. Seeberger, P.E., hereinafter, the "project based map", which map is incorporated by reference herein; and

WHEREAS, the property is presently vacant land and is 480 linear feet of frontage along US Route 40; and

WHEREAS, the AR-2 Zone does not specifically permit professional office buildings as a permitted use and as such a use variance has deemed to be required; and

WHEREAS, the application was determined by the Board to be complete on February 19, 2020 with waivers granted for completeness purposes only as to checklist #1 – item #29, Wetlands Delineation and NJDEP letter of interpretation and checklist #6 – General Requirements, item #6, and no objection to said waivers being offered by Board Engineer, James H. McKelvie, P.E., in his letter dated February 17, 2020 which is incorporated by reference herein; and

WHEREAS, a public hearing was held by the Board on February 19, 2020; and

WHEREAS, the Board heard testimony from Jay A. Perry, Managing Member, JPB Properties, LLC, Dale E. Boston, PLS, PP, with the Board having made a determination that Dale E. Boston is an expert qualified to testify; and

WHEREAS, the Board heard testimony of James H. McKelvie, PE, the Board Engineer and Kevin D. Rijs, PP, AICP, Board Consultant, who also filed a Planner Report on February 17, 2020, which report is incorporated herein; and

WHEREAS, the Board provided an opportunity for interested members of the public to ask questions or make statements regarding the application and two members of the public spoke with regard to concerns as to the application.

Emily Simons, provided comments from the Woodstown-Pilesgrove JEC regarding noise, headlight glare, stormwater runoff, and parking lot lights.

Kerry Proud, neighboring resident from Lot 2.02 which fronts Fox Road and shares a rear property line with applicant had comments regarding, buffering, wet ground and stormwater runoff.

WHEREAS, the Board and Applicant agreed that the record shall consist of the following:

1. Development application with all attachments and submissions attached thereto, along with additional exhibits marked A1 and A2, Board Planner report dated February 17, 2020 and Board Engineer completeness review letter dated February 17, 2020 shall be incorporated herein for purposes of review of application; and
2. Testimony and representations of Applicant and expert.

WHEREAS, the Board made the following findings of fact and conclusions based thereon:

Findings of Fact

1. The Board had jurisdiction to hear the application as the Applicant provided the required public notice in accordance with Township Ordinance and the municipal land use law.
2. The property is located on US Route 40 approximately 750 Southeast from the intersection of US Route 40/Fox Road/Stewart Road and is located in the AR-2 Zone.
3. The property is approximately 5.7 acres of land consisting of vacant property with approximately 3.5 acres of tillable property each.
4. The proposed "professional office building" would be approximately 15,000 square feet and consist of condominium units ranging from a possible number of units of 1 to possibly 8 units consisting of a minimum of 1,500 square feet. Applicant's further testimony indicated that preliminary calculations based on the concept plan presented, indicated that an anticipated approximate lot coverage of 35% +/- which would be confirmed at the time of application for Major Site Plan Approval.
5. Managing Member of Applicant, Jay Perry, provided his vision that the construction thereon will consist of a "professional office building", with the ultimate objective of creating a condominium style building with individual occupants owning their unit, the range of individual unit size would consist of a base of approximately 1,500 square feet and recognized that the definition of professional offices as contained in Pilesgrove Township Zoning Ordinance is acceptable.
6. Applicant agrees and accepts as a condition of approval, that a site plan application is required with all representation being reflected in the ultimate design understanding that there may be deviation, that those deviations will not be of a substantial nature.

7. Testimony was received and accepted that the property in question would be an excellent size and location for the location of a professional office building in an attempt to be in compliance with the Pilesgrove Township Neighborhood Commercial Zone. The improvements thereon would consist of ingress/egress with one entrance and exit onto US Route 40 and not into the neighborhood.
8. As to use of the property in question for farming the location would yield only approximately 3.5 acres for farming, the soil consisted of Alloway loam which is not particularly suited for farming, the existing wetlands thereon would limit a farming operation and the permitted uses in the existing zone (ie, church, daycare and veterinary clinic) would be a more intense use of the property than that proposed.
9. The Zone Plan for Pilesgrove would be advanced and further promote the goal of Pilesgrove Township planning.
10. The grant of a use variance would not have a substantive impact on the Zone Plan of Pilesgrove Township.

Conclusions

1. Given the size, location and physical characteristics of the property and predicated upon testimony received from Applicant, and Applicant's professionals and all submissions referenced herein, special reasons exist for the proposed use to be permitted in a zone where it otherwise would be prohibited by ordinance. Those special reasons consist of the property's location which is deemed to be particularly suitable for the proposed use and use of the property as a "professional office building" would carry out the purpose of Pilesgrove Township Zoning, and that the variance requested would not be substantially inconsistent with the intent and purpose of the master plan and zoning ordinances and furthermore special reasons exist as to why the use variance should be granted. The grant of the use variance would not be a substantial detriment to the public good and will not substantially impair the intent and purpose of Pilesgrove Township zone plan and ordinance.

NOW, BE IT RESOLVED by the Pilesgrove Township Planning Board that that Applicant is granted a use variance to permit the construction of a "professional office building" consisting of approximately 15,000 square feet, with a number of unit ranging from 1 through 7, with requisite parking and accessory facilities which approval is subject to the following terms and conditions:

1. The Applicant shall pay any and all required fees that are due or may become due to the Township of Pilesgrove within seven (7) days' notice therefore, including but not limited to settlement of any outstanding escrow review accounts.
2. The Applicant shall comply with all representations made by the Applicant during the course of the public hearing and as contained in Applicant's submissions memorialized in Application #2020 001 and all of the above noted submissions agreed to by Applicant and in all documents and materials filed with the Application.
3. The Applicant shall indemnify and hold the Board harmless from any claim of any kind which may be made as a result of any deficiency in the application and/or in the public notice of the application.

4. The use variance approval is conditioned upon Applicant making a successful Major Site Plan Application and approval to the Planning Board for the construction of the proposed "professional office building".
5. The Applicant shall sign this Resolution to acknowledge their compliance herewith.

ADOPTED by the Township of Pilesgrove Planning Board, meeting held on March 18, 2020, as a memorialization of the motion adopted by the Township of Pilesgrove Planning Board to grant the requested use variance at the conclusion of a public hearing held on February 19, 2020.

Pilesgrove Township Planning Board by:

Attested:

Jeffrey String, Chairperson

Rita Shade, Secretary

ACKNOWLEDGMENT

JPB Properties, LLC, does hereby certify that we have reviewed the within Resolution, find same acceptable, and realize that Board has relied upon our representations as an essential element in granting this approval. We acknowledge we have the absolute right to request the rescission of this approval within 45 days of the day of adoption of the Resolution subject to payment of any al all fees associated therewith. We certify that the foregoing statements made by us are true. We are aware that if any of the foregoing statements made by us are willfully false, we are subject to punishment.

Dated: _____

Jay Perry, Managing Member
JPB Properties, LLC

Approved as to form:

Frank J. Hoerst, III, Conflict Solicitor
Pilesgrove Township Planning Board

James H. McKelvie, PE
Pilesgrove Township Planning Board

Kevin D. Rijs, PP, AICP
Pilesgrove Township Planning Board