

**RESOLUTION NO. 2020-014
PILESGROVE TOWNSHIP PLANNING BOARD
RESOLUTION MEMORIALIZING THE GRANT
OF MINOR SITE PLAN REMOVAL WITH A USE VARIANCE
SUBJECT TO CERTAIN CONDITIONS, TO
APPLICATION NO. 2020-008
PHILLIP YURGIN
(BLOCK 79, LOT 1)**

**Approved: July 15, 2020
Memorialized: August 19, 2020**

WHEREAS, an Application was filed by Phillip Yurgin (Applicant), whose mailing address is 1210 Route 40, Pilesgrove, New Jersey 08098, for a Minor Site Plan with a Use Variance for the development of property known as Block 79, Lot 1 on the Pilesgrove Township Tax Map and more commonly known as 1210 Route 40 (Property) being located in a HC – High Commercial zone. The improvements being depicted on a minor site plan prepared by Land Engineering, LLC and signed by James A. Clancy, Professional P.E. and dated April 20, 2020, consisting of 1 sheet; and,

WHEREAS, James H. McKelvie, P.E., CME, the Pilesgrove Township Planning Board engineer (Board Engineer), having reviewed the Application and rendered a completeness review letter thereon dated May 18, 2020 (Completeness Engineer's Letter) and a Technical Review on June 15, 2020 (Technical Engineer's Letter); and

WHEREAS, Kevin D. Rigs, P.P. AICP, the Pilesgrove Township Planning Board Planner (Board Planner), having reviewed the Application rendered a Planner Report Letter thereon dated May 12, 2020 (Planner Review Letter); and,

WHEREAS, the Application was deemed complete by the Board on June 17, 2020 at the regular scheduled meeting of the Pilesgrove Township Planning Board; and

WHEREAS, notice to the public was required in accordance with the Township Ordinance and the Municipal Land Use Law (MLUL); and

WHEREAS, there is currently a pandemic caused by the novel virus COVID-19 which has caused the Governor of the State of New Jersey to issue various quarantine and social distancing executive orders; and

WHEREAS, a result of these orders public gatherings are only permitted where appropriate social distancing can be maintained; and

WHEREAS, the Planning Board in an effort to meet the social distancing guidelines held the public hearing both virtually and in person where both the public and the Applicant had the opportunity to appear virtually through the program ZOOM; and

WHEREAS, the Planning Board issued its own notice to the public prior to the meeting that the meeting would be held both virtually and in person with instructions of how to call into the meeting; and

WHEREAS, the Application was posted on the Pilesgrove Township website for the public who chose to attend the meeting virtually to review the Application with attachments; and

WHEREAS, the Applicant provided notice in accordance with applicable MLUL and Township Ordinance, in which it was indicated the Planning Board meeting would be held virtually, and/or in person, providing all required call-in information for public use; and

WHEREAS, the Board determined that it had jurisdiction to hear the Application and proceed with a public hearing on the Application on the regular meeting of the Pilesgrove Township Planning Board convened on July 15, 2020; and

WHEREAS, the Board heard testimony from Phillip Yurgin, the Applicant, James A. Clancy, Engineer for Applicant, and representations made by Charles A. Fiore, Esquire, Attorney for Applicant; and

WHEREAS, after hearing the above testimony, and representations, the Board made the following findings of fact:

1. The property is in an HC – Highway Commercial Zoning District as designated on the Township Zoning Map.

2. The Property is 25.27 acres in size.
3. The northwestern portion of the property consisting of 9 acres is presently developed including 2 masonry and 1 metal buildings containing office and shop area, paved driveway and parking areas, concrete pads, site and building mounted lights, sign, storm inlets, storm basin, lawn area and buffer landscaping. The remainder of the property is an undeveloped farm field.
4. The site is located on the South side of Route 40.
5. The current use of the property is for truck sales and service.
6. The proposed use adds the manufacturing of truck bodies, therefore, the use for the site will be truck sales and service and manufacturing of truck bodies.
7. Through Resolution 2018-13 the site previously obtained use variance and site plan approval for the addition of a paint booth and body work repairs to the truck sales operation.
8. The 2018 approval involved a 1,440 SF building addition.
9. The Applicant is proposing to replace an existing 9,931 SF building (damaged by fire) with a new 23,042 SF building.
10. The hours of operation shall be 8:00 a.m. to 5:00 p.m. 6 days a week.
11. The number of total employees shall be 10.
12. For the granting of the d(1) Use Variance the Applicant must show:
 - a. **Positive Criteria:** The granting of the variance will promote the general welfare, uses that are deemed (inherently beneficial) or the development of the site is particularly suited for the proposed use.
 - b. **Negative Criteria:** The Use Variance cannot be granted without showing that such a variance can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the Zoning Ordinance.

13. As it relates to the Use Variance requested together with the Applicant's submission, the Applicant testified to the following regarding the Positive and Negative Criteria:

- a. **Positive Criteria:** The Applicant testified that the development will benefit the community and is particularly suited for the particular use.
- b. **Negative Criteria:** The proposed use can be granted without substantial detriment to the public good as it sits back far from the property lines and it would create minimal noise and traffic. Additionally, it will not impair the intent and purpose of the Zoning Ordinance.

14. No member of the public appeared and spoke on the Application.

15. The Board Next reviewed the Technical Review Letter and Planner Review Letter. The Applicant agreed to comply with all the comments and requirements contained in the letters, subject to the engineer's and planner's approval.

BE IT THEREFORE RESOLVED on this _____ day of _____, 2020 by the Pilesgrove Township Planning Board, the Minor Site Plan and Use Variance requested as further depicted on the plan submitted is granted, and is subject to the following conditions:

1. Payment of any and all required fees which are due or may become due to the Township within seven (7) day notice thereof, including but not limited to, settlement of any outstanding review escrow accounts.
2. Any and all conditions of approval detailed in the technical engineer's and planner's review letter, subject to the planner's and engineer's approval.
3. Obtaining any and all other approvals for the proposed revisions that may be required by any governmental/regulatory body including, but not limited to, the New Jersey Department of Environmental Protection pursuant to the Freshwater Wetlands Act, the Salem County Planning Board and/or the Salem County Soil Conservation District, New Jersey Department of Transportation, etc. Applicant's engineer shall certify that said approvals have been received.

BE IT FURTHER RESOLVED, that in the event the above conditions are not satisfied within two (2) years from the date of the grant of approval, the relief granted herein shall be denied retroactively to said approval date.

BE IT FINALLY RESOLVED that the Applicant is hereby placed on notice that:

1. If he or his successors intend or desire to engage in a regulated activity upon the property as defined in N.J.S.A. 13:9B-3; and, if required, a Freshwater Wetlands Permit or exemption therefrom must be obtained.

2. In the event the development requires the disturbance of more than 5,000 square feet of Property, approval of a plan for soil erosion and sediment control may be required from the Salem County Soil Conservation District; and if so, no Certificate of Occupancy will issue until the plan is implemented.

3. Applicant shall comply with all representations made during the course of the hearing and in all filed documents.

4. 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, including any challenges to the notice requirements of the MLUL and Township Ordinance.

5. During construction, Applicant shall correct any condition causing erosion or any other deleterious effect upon the community within three (3) days notice, or any lesser time deemed required, from or by the Township Engineer.

6. Applicant shall be responsible for locating the improvements in accordance with the Ordinance and/or this Resolution. Same may require the retention of a professional land surveyor, engineer, etc. to ensure compliance with the Ordinance. Applicant expressly understands that the Township shall not be responsible for locating the improvements and if same are not in compliance with the Ordinance and/or this Resolution, Applicant shall be obligated to remove said non-conforming improvements and relocate them in accordance with the Zoning Requirements and/or this Resolution.

7. Any additional site improvements or modifications to the approved plan require approval from the Pilesgrove Planning Board.

8. The Applicant shall comply with all Township and MLUL bonding requirements.

PILESGROVE TOWNSHIP PLANNING BOARD

BY: _____

JEFFREY STRING, Chairperson

ATTEST:

RITA SHADE, Secretary

ACKNOWLEDGMENT

I, Phillip Yurgin, hereby certify I reviewed the within Resolution, and realize the Board has relied upon my representations as an essential element in granting this approval. I acknowledge I have the absolute right to request the rescission of this approval within 45 days of the adoption of the Resolution, subject to payment of any and all fees associated therewith. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: _____

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