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TO: Pequannock Zoning Board of Adjustment
FROM: Jill A. Hartmann, PP, AICP
RE: SITE PAN AND USE VARIANCE APPLICATION TO CONVERT AN EXISTING INDUSTRIAL BUILDING TO A TOWING AND VEHICLE STORAGE YARD; 12 INDUSTRIAL AVENUE; BLOCK 4402, LOT 9; APPLICANT: CAMP AUTO & TRUCK PARTS, INC.
DATE: November 4, 2020

This is a Site Plan and Use Variance Application to convert an industrial building to a towing and vehicle storage yard use. The subject site is located in the I-1 Industrial District of the Township. The proposed towing and vehicle storage yard business is not permitted in the I-1 District. A d(1) use variance is required. The zoning Board of Adjustment has jurisdiction to hear this application. The following submitted documents were utilized in the preparation of this planning report:

- * Completed Pequannock Township Application of Site Plan, signed by Donato Campanello, dated April 26, 2020.
- * Completed Pequannock Township Application for Variance, signed by Donato Campanello, dated April 26, 2020.
- * Completed Pequannock Township Application for Flood Plain, signed by Donato Campanello, dated April 26, 2020.
- * Use Variance Plan, consisting of 1 sheet, prepared by William J. Darmstatter, Pe, LS of Darmstatter, Inc., dated March 30, 2020.
- * Survey, prepared by William J. Damstatter, Pe, LS of Darmstatter, Inc., dated September 28, 2020.

ZONING ANALYSIS AND COMMENTS

1. The subject site is an undersized 21,783 square foot parcel that is located at the top of a cul-de-sac. It contains a one story industrial building, a paved parking area and a rear grass and stone open area that has been historically used for the parking of vehicles associated with the site's industrial use. It is non-conforming in terms of lot size, lot width, front yard setback, one side yard setback, rear yard setback and buffer.
2. The application proposes to convert the existing industrial use to a towing and vehicle storage yard. The I-District does not permit a wrecking/towing and vehicle storage use. As a result, a d(1) use variance is required.

The Municipal Land Use Law (MLUL) sets forth the positive and negative criteria for variance relief. It permits the Zoning Board of Adjustment to grant a d (1) use variance in particular cases. When a use or d(1) variance is required, the applicant must satisfy both the positive and the negative criteria. The positive criteria or special reasons include the showing, by the applicant, that the granting of the variance will effectuate the intents and purposes of the MLUL and advance the goals and objectives of the municipal master plan. The negative criteria establishes that the variance can be granted without substantial detriment to the public good; that the benefits of the deviation would outweigh any detriment and that it will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

Additionally, an applicant for a use variance is required to address the planning issues raised in the New Jersey Supreme Court case Medici v. BPR Co. 107 NJ (1987). The guidelines set forth in Medici require that an applicant, for a use variance, must demonstrate that special reasons are satisfied by either showing that the proposed use is one which, inherently serves the public good or that the proposed use, promotes the general welfare because the site is particularly suited for that use. The Medici decision provides, that along with the demonstration of the negative criteria, an enhanced quality of proof must be demonstrated to indicate that the grant of the requested use variance is not inconsistent with the intent and purposed of the Master Plan or Zoning Ordinance.

The Larry Price v Himeji LLC and the Union City Zoning Board of Adjustment, provides new guidance on “particular suitability” of a site for a proposed use not permitted in the zone. The Supreme Court upheld more general understanding of particular suitability, which requires the applicant demonstrate that the particular property as developed for the proposed use serves the general welfare, because its location is particularly suited for the use. Therefore, (1) the facts must distinguish the subject site from surrounding sites; and (2) the applicant must demonstrate that the particular property as developed for the proposed use serves the general welfare, because its location is particularly suited for the use.

Finally, in Puleio v. North Brunswick Zoning Board of Appeals, the Appellate Division determined that if an application is for a use that is not permitted in the zone, the bulk regulations established for that use cannot be applicable for the proposed use. Thus a Zoning Board, when considering a use variance, must consider the overall design of the site. In essence, the c variances or bulk and area variances, are subsumed into the use variance.

The applicant should provide the Board, as part of its use variance testimony, a detailed description of its business, number of employees, hours of operation, total number of towing vehicles, equipment that might be stored and used on site, total number of towed vehicles to be stored at one time.

The storage yard will be heavily used. Presently it is mostly grass with some gravel. The applicant as part of his use variance testimony must address this condition. Significant and constant traversing of this rear area will cause significant impact to the site during periods of inclement weather making it a muddy mess.

In its deliberation, the Board should consider the following:

- * While the Township Code at §185.06 entitled Application for wrecker license requires all towing businesses to be licensed by the Township police department. Section 185.19 limits the number of licenses issued. Stating that “it is hereby determined under the lawful exercise of the police power of the Township that public convenience and necessity require that the number of wreckers to be licensed within the Township shall be limited to five because of the limited area of the Township. The applicant should provide significant testimony with regards to the need for an additional towing and vehicle storage facility. Specifically, the applicant should address if the Township Chief of Police was contact with regards to the need for an additional towing and storage facility within the Township.
- * The proposed use is significantly different from the adjacent industrial and outdoor storage uses. The applicant should address what impact the proposed towing and vehicle storage business will have on the adjacent industrial/office use to its immediate south, the office and vehicle/equipment storage business to its immediate north and the various office and storage uses along the remainder of Industrial Avenue.

* The non-conforming conditions of the existing site and its overall design should be considered. The non-conforming conditions are identified below:

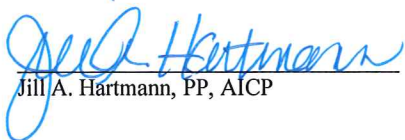
* Lot Size	43,560 sf 21,783 sf	Required Existing
* Lot Width	150' 80.3'	Required Existing
* Front Yard Setback	35' 29.3'	Required Existing
* Side Yard Setback	30' 5.1'	Required Existing

* At least 10 feet of each side yard shall be landscaped or planted. Neither side yard is landscaped and is an existing non-conforming. No formal landscaping exists or is proposed.

* A five-foot planted buffer shall be required to be planted in each side and rear yard adjacent to the property line where the property abuts commercially or industrially zoned or used property. No formal landscaping exists or is proposed.

3. The submitted plan proposes to utilize the one story industrial building for the business office. The building measures 21.9' x 70.9' = 1,552.71 sf. Parking is required at 1 space/222 sf or 7 spaces. The plan shows a total of 6 off-street parking spaces. A variance for one space is required.
4. The existing perimeter fence and gate enclosure is in disrepair and should be replaced. The site is located in the floodway. The applicant should address any issues the fence enclosure may have with regards to the NJDEP.

It is certified that all copies of this document are in conformance with the original prepared by Jill A. Hartmann, PP, AICP, License No. 4088


Jill A. Hartmann, PP, AICP

Zone Table

12 Industrial Avenue
Block 4402, Lot 9

I-1 District Requirements
(For Comparison Purposes)

Item	Required	Proposed	Variance
Lot Area	43,560 sf	21,783 sf	Existing Non-Conforming Condition/Variance Required
Lot Width	150'	80.3'	Existing Non-Conforming condition/Variance Required
Lot Frontage	50'	80.3'	Existing Non-Conforming Condition/Variance Required
Front Yard Setback	35'	29.3'	Existing Non-Conforming Condition/Variance Required
Side Yard Setback	30'	5.1/±52'	Existing Non-Conforming Condition/Variance Required/OK
Rear Yard Setback	30'	160'	OK
Building Coverage	35%	7.18%	OK
Impervious Surface Coverage	75%	28.31%	OK
Parking (Office Use)	7 spaces	6 spaces	Variance Required