

# **West Windsor Township Zoning Board of Adjustment**

## **Minutes – Regular Meeting**

**January 24, 2019**

The regular meeting of the Zoning Board of Adjustment was called to order at 7:00 p.m. on Thursday, January 24, 2019 by Chair Abbey in Meeting Room A of the Municipal Building.

### **STATEMENT OF ADEQUATE NOTICE**

Pursuant to the Sunshine Law, a notice of this meeting's date, time, location and agenda was mailed to the news media, posted on the Township bulletin board and filed with the Municipal Clerk as required by law.

### **ROLL CALL AND DECLARATION OF QUORUM**

Present: Susan Abbey  
John Church  
Michael Garzio  
Daniel Marks  
Aleta Ricciardi  
John Roeder  
Carl Van Dyke

### **COMMENTS AND CORRESPONDENCE**

None

**PUBLIC COMMENT** – No comments were provided.

### **RESOLUTION**

- a) **ZB18-05**  
**VCC Princeton Junction LLC**  
**"d-1" Use Variance**  
**47 Princeton-Hightstown Road**  
**Block 12.04, Lot 18**

A member of the public asked to speak to the Board. Mr. Hussan Syed asked what happens after board approval of the variance. Sam Surtees, Zoning Officer, stated that the applicant could submit a use variance and site plan application but in this case the use variance application was approved and the site plan will return for full Zoning Board review. Mr. Syed asked about traffic studies. Mr. Surtees advised that there was a traffic analysis and this was discussed during the concept plan review. Copies are available through the office. The applicant's traffic engineer addressed the Board's concerns. Traffic studies were done for other properties in the immediate area and those copies are also available. Mr. Surtees stated that the downtown Redevelopment Plan envisioned results in more density in this part of town, in addition the County is doing improvements of the roadway in anticipation of the development along Route 571 (Princeton-Hightstown Road).

Savelli Shah, resident of Lawrenceville, stated that she is the owner of The Happy School located next to the shopping center and she was just made aware of the proposal for a daycare facility. She stated she believes a variance is passed if there is a need, but there is no need for an additional daycare facility. She was advised that this is not correct. Mrs. Shah asked if the Board feels it is necessary to have a large preschool so close to the community. Chair Abbey stated that this is up to the applicant, not the Board.

Motion was made by J. Roeder and J. Church seconded the motion to approve the resolution for ZB18-05 as amended of those eligible to vote. The vote was 5-0 in favor. Motion Carried.

### **APPLICATION**

Member Hoberman has a conflict with the following application and is not in attendance.

**ZB18-09      ELLSWORTH CENTER - BANK OF PRINCETON**  
d-1 Use Variance  
Block 5, Lots 20, 62 & 76  
549 Cranbury Road  
Property Zoned: RP-7 District  
MLUL:

Dino Spadaccini, Esq., legal counsel for the applicant, stated that development of the Ellsworth Shopping Center is progressing. A bank space within the shopping center is being proposed but banks are not permitted in the redevelopment zone. Mr. Spadaccini stated there will be no changes to the building at all.

The following individuals were sworn in for the applicant: Sean Ellsworth, owner/applicant; James Kyle, planning consultant; and Timothy Burton, architect.

Mr. Spadaccini presented Exhibit A-1, Overall Site Plan dated 5/9/13, and identified building N-4, he stated that apartments are on the second floor of this building and the Bank of Princeton wishes to occupy the entire first floor of the building.

He referenced the wording in ordinance 200.266 a2g, pertaining to the RP-7 district and stated that use variance approval is needed for a bank. The applicant feels that because a bank was not in place when the ordinance was adopted (2009) the intent was to limit the number of banks in this portion of Route 571. There were four banks in the area at that time. Mr. Spadaccino stated that there will be no drive-thru, the hours of operation will be 9a to 5p Monday through Thursday; 9a to 6p Friday and 9a to 12p on Saturday. Sunday the bank will be closed.

James Kyle, Planner for the Applicant, presented the negative criteria. The application is not inconsistent with the zone plan; banks are permitted in the district as long as they were in place at the time of adoption of the ordinance. He stated the bank will not impact the public welfare and it is well suited. The purpose of the district focuses on providing local needs for the people living in the area so it fits in with what the district is intending. Offering a variety of banks is beneficial to patrons because of fees incurred by using ATMs from other banking institutions. The space will not function differently than another office or retail space. Regarding the parking standards, there is no difference and this will not negatively impact the parking scheme. The site is well suited with development surrounding it.

Pertaining to the positive criteria, Mr. Kyle stated the district is appropriate for banks and some banks that were in this district are no longer there so the number of banks is not being increased. The bank services the needs of the local residents. No impact, no drive-thru and it functions just like an office. The proposal was discussed with a traffic engineer and the trip generation for banks vs. retail offer similar numbers so the traffic is not being increased. No drive-thru is proposed so there is no impact to the intent of the zone plan.

Exhibit A-2 was presented, the top half is a computer rendering of the main entrance after full development and the Building N-4 is on the right side of the entrance; the lower half is a photograph of the development that was taken two weeks ago. Mr. Kyle stated that the bank will have a marquee sign, building sign in addition to being on the free standing sign. Chair Abbey asked if the applicant presented the signage plan to the Planning Board since Zoning Board review. Mr. Spadaccini responded that the Planning Board did not review this.

C. Van Dyke stated that in 2013 the Zoning Board reviewed the signage plan. Mr. Surtees stated that the original application had an FAR issue so the expansion of the center was reviewed by the Zoning Board. The RP-7 district has expanded since that time and the FAR is now conforming so recently Planning Board approval was needed for some retail stores where a parking lot was originally approved. Pertaining to the bank, this is a part of the overall plan that was approved originally by the Zoning Board.

Samuel Surtees, Land Use Manager/Zoning Officer and David Novak, Planning Consultant for the Board, were sworn in.

Mr. Spadaccini presented the sign exhibit from 2013 (Exhibit A-3). He stated that the graphic shows the signs that were approved. In addition to the marquee sign, additional signs were approved for certain tenants and the Bank of Princeton sign will be the same as what was approved.

Tim Burton, architect for the applicant, stated that 3' x 9' marquee band signage is permitted. In addition to building signage, tenant signage, unit signs and traffic signage was approved. He presented the approved plan (Exhibit A-4) and stated that they are not asking for any changes to the plan that was approved.

Chair Abbey stated that when considering a use variance, the intent of the Master Plan is key and she asked the reason why no banks were part of the approval for the RP-7 zone. Mr. Surtees stated that a bank may not want to go in the Center because a drive-thru is not permitted. She asked if walkability of this site is what was considered and Mr. Surtees confirmed this.

A. Ricciardi asked if the bank will have a safe deposit box. Mr. Burton stated that he reviewed the plans and there is no vault.

Mr. Novak stated that the points identified in the report from Burgis Associates dated 1/15/19 have been addressed and the description of the bank provided by the applicant is not much different than what is permitted. Financial institutions, general office and retail uses are not much different and the parking generation is not different except that the hours of operation for this business will result in less traffic on weekends.

J. Church asked about an ATM. Mr. Burton stated that an ATM will be on the courtyard side, it will not be visible from the street.

Chair Abbey stated that the property behind this will add a large amount of residences so many people will walk to the bank. The intent of the zone is to make this area walkable.

The meeting was opened to the public. Being that no one wished to speak, motion was made by J. Roeder and seconded by J. Church to close the public portion. Motion carried.

Chair Abbey stated that the proposal to have a bank in this building is a good idea, it is appropriate and the key is that there is no drive-thru. It substantially changes the character to a more residential area so this is appropriate. In addition to the fact that there is no bank in this corner piece and banks are included in the criteria of personal service zoning. She felt questions were answered as to why banks were not permitted in district.

Motion was made by J. Roeder to approve the application with the condition that there will never be a drive-thru proposed for this building and that the applicant will fully comply with the approved signage plan. The motion was seconded by A. Ricciardi. Chair Abbey identified the reasons for the approval as follows:

The application is particularly suited; it is in line with the Master Plan; it is a key element in the design of the center; there will be no drive-thru; the bank promotes walking in the development; it is close to a substantial number of units; it is not on a block with other banks in the zone; no site changes; no transportation changes.

The vote was 7-0 in favor. Motion carried.

For: Abbey, Church, Garzio, Marks, Ricciardi, Roeder, Van Dyke

Against: None

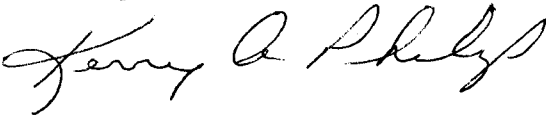
Abstain: None

### **OTHER BUSINESS**

Edwin Schmierer, Esq., legal counsel advised that a legal training session will be scheduled. An email will be sent to the Board about the date of the session.

Being that there was no other business before the Board, the meeting was adjourned at 8:00 p.m.

Respectfully submitted,



Kerry A. Philip  
Recording Secretary