

TOWN OF PHILLIPSBURG LAND USE BOARD RESOLUTION NO. 2022-5

RESOLUTION GRANTING SITE PLAN EXEMPTION AND VARIANCES IN CASE NO. 2022-2

**Thomas Kent Corcoran – Applicant/Owner
725 Metz Street
Phillipsburg, New Jersey 08865
Block 405, Lot 6**

Application #2022-2

WHEREAS, Thomas Kent Corcoran (“Applicant”) applied to the Town of Phillipsburg Land Use Board (“Board”) for Site Plan Waiver/Exemption pursuant to L.O. 510-9; and Bulk Variance Approval pursuant to N.J.S. 40:55D-70(c), along with any and all design exceptions and/or waivers (collectively “the Application”), for alteration of the residential property owned by Applicant, known as 725 Metz Street, and identified on the Town of Phillipsburg Tax Map as Block 405, Lot 6, located in the R-75 Residential Zone; and

WHEREAS, the Board having satisfied itself that proper notice was given to neighboring property owners and to all others entitled to notice, as well as publication pursuant to both the Town of Phillipsburg Code and to N.J.S. 40:55D-12, on or about April of 2022; and

WHEREAS, the Applicant appeared before the Land Use Board at a regularly-scheduled meeting on April 28, 2022, at which time the Board considered the undated Application for Site Plan Waiver/Exemption; the March 23, 2022 Petition of Appeal from Zoning Officer’s denial of a Permit; and the drawings, as more fully described below; and the Board Engineer’s April 7, 2022 review letter, and the Board having determined that said Application was complete by unanimous voice vote; and

WHEREAS, a public hearing was held on April 28, 2022, where the Applicant, represented by William E. Mandry, Esq., presented a brief explanation concerning the Application, *to wit*, the request for a Site Plan Exemption and a bulk variance relief to allow for exterior and interior renovations and exterior additions to the residence at 725 Mertz Street; and

WHEREAS, the Board has received certain documentation and reports from the Applicant, the Board’s professional consultants and others, these having been given due consideration and being the following:

- A. Town of Phillipsburg – Application for Site Plan Exemption, undated;
- B. Town of Phillipsburg Application for Appeal from Zoning Officer’s decision, dated March 22, 2022;

- C. "Schematic Drawings for Variance Application" prepared by Mark J. Zgoda, AIA, P.A., dated March 22, 2022, and consisting of two sheets for Block 405, Lot 6;
- D. "Schematic Drawings for Architectural Plan" (colored) prepared by Mark J. Zgoda, AIA, P.A., dated March 22, 2022, and consisting of two sheets for Block 405, Lot 6; and
- E. Finelli Consulting Engineers' Survey for Block 405, Lot 6, dated January 17, 2022; and

WHEREAS, the Applicant is requesting the following variances from the Town Ordinances:

- 1. A "c" use variance, pursuant to N.J.S. 40:55D-70(c), to permit a front yard setback of eleven feet (11') where L.O. 625-8(B) and L.O. 625-80 require twenty-five feet (25');
- 2. A "c" use variance, pursuant to N.J.S. 40:55D-70(c), to permit lot coverage of approximately thirty-six percent (36%) where L.O. 625-8(B) and L.O. 625-80 permit a maximum thirty percent (30%) coverage;
- 3. A "c" use variance, pursuant to N.J.S. 40:55D-70(c), to allow a front yard fence along Roseberry Street of six feet (6') where L.O. 625-9(A) limits a front yard fence to four feet (4'); and
- 4. A "c" use variance, pursuant to N.J.S. 40:55D-70(c), to permit the construction of a driveway/parking area with less than twenty-five feet (25') to the edge of the pavement of the intersection of Roseberry Street and Metz Street as prohibited under L.O. 625-28(C); and

WHEREAS, the Board having considered the letter of the Board engineer dated April 7, 2022, the contents of which the Board adopts and incorporates its finding of fact by reference herein; and

WHEREAS, the Applicant presented the sworn testimony of Mark J. Zgoda, AIA, P.A., on April 7, 2022, who is the Applicant's architect and who provided brief testimony regarding the interior and exterior renovations and exterior addition planned, to wit, expansion of the existing asphalt driveway, additions to side/rear yard and Roseberry Street frontage, installation of a shed and structure improvements; and

WHEREAS, the following documents were marked as exhibits at the April 7, 2022 hearing and were discussed and testified to by the Applicant's witnesses. These are now included as part of the record:

- 1. Exhibit "A-1": Curriculum Vitae of Mark J. Zgoda, AIA, P.A.;
- 2. Exhibit "A-2": Finelli Consulting Engineers' Survey for Block 405, Lot 6, dated January 17, 2022;
- 3. Exhibit "A-3": "Schematic Drawings for Variance Application" prepared by Mark J. Zgoda, AIA, P.A., dated March 22, 2022, and consisting of two sheets for Block 405, Lot 6;
- 4. Exhibit "A-4": "Schematic Drawings for Architectural Plan" (colored) prepared by Mark J. Zgoda, AIA, P.A., dated March 22, 2022, and consisting of two sheets for Block 405, Lot 6; and

WHEREAS, the Board was satisfied with Mr. Zgoda's testimony such that the Board did not have any questions or comments; and

WHEREAS, the Applicant did not offer any additional witnesses, documents or evidence; and

WHEREAS, the Board did not have any further inquiry of the Applicant; and

WHEREAS, the Applicant not having offered any planning testimony from a New Jersey licensed professional planner, the Board then considered the planning comments from the Board Engineer, Stanley Schrek, who is a New Jersey licensed professional planner;

WHEREAS, the Board asked for public comment and received none; and

WHEREAS, the Board considered all of the preceding;

NOW THEREFORE, as a result of the Applicant's presentation, testimony and exhibits presented by the Applicant's witnesses as aforesaid and the documentation submitted, the Board finds as follows:

1. The subject property is located in the Town of Phillipsburg R-75 Residential Zone.
2. N.J.S. 40:55D-1, *et. seq.*, the "New Jersey Municipal Land Use Law," provides for review and approval of all development applications.
3. The "Town of Phillipsburg's Site Plan Ordinance of 1979" provides for review and approval of all development applications, pursuant to L.O. 510-1, *et. seq.*
4. The Applicant must obtain either Site Plan Approval or a Site Plan Exemption/Waiver from the Board before he develops the subject property.
5. The Board has the authority to grant waivers from the provisions of Chapter 510 of the Town of Phillipsburg's Ordinances, *to wit*, the "Town of Phillipsburg's Site Plan Ordinance of 1979," pursuant to N.J.S. 40:55D-51.
6. N.J.S. 40:55D-51(b) states: "The planning board when acting upon applications for preliminary site plan approval shall have the power to grant such exceptions from the requirements for site plan approval as may be reasonable and within the general purpose and intent of the provisions of the site plan review and approval of an ordinance adopted pursuant to this article, if the literal enforcement of one or more provisions of the ordinance is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question."
7. L.O. 510-9(C) authorizes the Board to grant a Site Plan Exemption if the criteria set forth in L.O. 510-9(A) & (B) are met.
8. L.O. 510-9(A) states that: "The Board, when acting upon an application for site plan approval, shall have the power to grant such exceptions from the requirements of site plan approval as may be reasonable and within the general purpose and intent of the provisions for site plan review if the

literal enforcement of one or more provisions of this chapter is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.”

9. L.O. 510-9(B) states that: “An applicant for any development or change of use of property that does not increase the intensity or use of the property or change the layout of the site or undertake any structural expansion, and further, if it is not physically possible to meet the other requirements of the Zoning or Development Ordinances of the Town of Phillipsburg requiring additional parking, landscaping, buffering, lighting or other such facilities and is so certified, in writing, by the applicant, may file a written application for waiver of the site plan review on forms provided in the office of the administrative officer at least 10 days prior to the next regularly scheduled meeting.”
10. A waiver, or an exemption, is an acknowledgment by the Board that conditions of the property are satisfactory and meet the requirements of the Town of Phillipsburg Ordinances.
11. The Board has authority to grant conditional uses under the “New Jersey Municipal Land Use Law,” pursuant to N.J.S. 40:55D-70 and pursuant to Section 625-81(c) of the “Town of Phillipsburg Zoning Ordinance.”
12. It has been acknowledged by the Board that waivers of the requirements be granted as to each of the items contained in the Completeness Review of the Board’s Engineer.
13. The Board concurs that the condition of the property is satisfactory and meets the requirements of the Town of Phillipsburg Ordinances thereby authorizing the granting of a Site Plan Exemption as requested by the Applicant.
14. The Board concurs that, in all other respects, the condition of the property is satisfactory and meets the requirements of the Town of Phillipsburg Ordinances.

NOW THEREFORE, BE IT RESOLVED THAT the Applicant’s request for a Site Plan Waiver on the property, pursuant to L.O. 510-9(C) of the “Town of Phillipsburg Site Plan Review Ordinance of 1979” is hereby **GRANTED**, ON MOTION OF Mr. Zwicker and seconded by Mayor Tersigni:

ROLL CALL VOTE

Ayes: Chairman Duffy, Mayor Tersigni, Mr. Zwicker, Mr Brotzman, Mr. Hanisak, Mr. Penrose, Mr. Turnbull

Nays: None.

Abstentions: None.

Recusals: Mr. Kennedy

NOW THEREFORE, BE IT RESOLVED THAT the Applicant’s request for a Variance from the “Town of Phillipsburg Zoning Ordinance,” under Chapter 625 of the Town of Phillipsburg’s Ordinances, as noted above, pursuant to N.J.S. 40:55D-70(c), is hereby **GRANTED, ON MOTION OF** Mayor Tersigni and seconded by Mr. Brotzman:

ROLL CALL VOTE

Ayes: Chairman Duffy, Mayor Tersigni, Mr. Zwicker, Mr. Brotzman, Mr. Hanisak, Mr. Penrose, Mr. Turnbull

Nays: None.

Abstentions: None.

Recusals: Mr. Kennedy

AND IT IS FURTHER RESOLVED THAT the Applicant’s request for Site Plan Waiver/Exemption approval for expansion of the existing asphalt driveway, additions to side/rear yard and Roseberry Street frontage, installation of a shed and structure improvements on the property known as Block 405, Lot 6, located in the R-75 Residential Zone, is granted subject to the express and unaltered conformation with the following conditions:

1. The Applicant shall be bound to comply with all comments contained in the Board Engineer’s review letter dated April 7, 2022, as modified at the April 28, 2022 hearing, unless altered by this approval, including any comments contained in subsequent reports. In the event that the Applicant is unable to comply with any of the Board Engineer’s requirements or recommendations, it is understood that it reserves the right to apply to this Board for relief therefrom.
2. That, if applicable, the Applicant procure, and provide copies to the Board, of all applications, licenses and permits required by all federal, state and municipal agencies.
3. That a pre-construction conference be scheduled with the Town Engineer’s office at least two days prior to commencement of construction.
4. That the Applicant pays all outstanding fees and deficiencies in the review escrow account pertaining to this application.
5. That any portion of any prior Site Plan approvals are hereby vacated to the extent they may be inconsistent with this Site Plan Exemption.
6. That the Applicant applies for, and obtains, approval from all other agencies and governmental bodies which may have concurrent jurisdiction over this project including, but not limited to, the Town of Phillipsburg Fire Chief, the Town of Phillipsburg Chief of Police, the Warren County Planning

Board, Warren County Soil Conservation District, the Phillipsburg Sewer Utility, Elizabethtown Gas, Aqua New Jersey and Jersey Central Power & Light ("JCP&L").

ON MOTION OF Mayor Tersigni AND SECONDED BY MR. Brotzman

ROLL CALL VOTE

Ayes: Chairman Duffy, Mayor Tersigni, Mr. Zwicker, Mr. Brotzman, Mr. Hanisak, Mr. Penrose, Mr. Turnbull

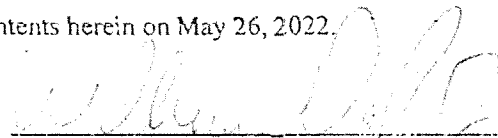
Nays: None.

Abstentions: None.

Recusals Mr. Kennedy

The foregoing Resolution memorializing the action taken by the Town of Phillipsburg Land Use Board was duly adopted at its regular meeting on the 28th day of April, 2022, by a majority of the aforesaid members approving the oral approval for the contents herein on May 26, 2022.

Dated: May 26, 2022



WILLIAM DUFFY, Chairman