



You couldn't pick a better place.

ZONING BOARD OF ADJUSTMENT Thursday, July 9, 2020 SPECIAL MEETING - APPROVED MINUTES

OPENING: The virtual meeting was called to order by Chairman Jonathan Rardin at 7:37 PM.

PLEDGE OF ALLEGIANCE: Led by Chairman Jonathan Rardin.

OPMA STATEMENT: Read by Chairman Jonathan Rardin in compliance with the Sunshine Law and per the New Jersey Department of Community Affairs' (NJDCA) Guidance for Remote Public Meetings in New Jersey (N.J.S.A. 10:4-9.1 (P.L. 2020, c.11)).

ROLL CALL

- **Members in attendance:** Jonathan Rardin; Wyatt Sklar; Marshall Spevak; Jeff Potter; Nacovin Norman; Jill Roth-Gutman; and Anju Pejavara.
- **Professionals in attendance:** Cosmas Diamantis, Esq.; Secretary; Natalie Shafiroff, PP, AICP, Alternate Secretary; Jacob Richman PP, AICP, Alternate Secretary; Stacey Arcari, PE, PP, CME, PTOE, Zoning Board Engineer; and Allen Zeller, Esq., Zoning Board Solicitor.

ADMINISTRATIVE ITEMS

Adoption of Special Meeting Minutes from July 1, 2020. Mr. Sklar made a motion, which was seconded by Mr. Spevak, to adopt the Special Meeting Minutes from July 1, 2020. Affirmative votes by Rardin, Sklar, Spevak, Potter, Norman, Roth-Gutman, and Pejavara. Minutes are approved.

AGENDA ITEMS:

16-Z-0042

Block(s) 133.01, 148.01 and 135.01 Lot(s) 1, 12, 9 & 10
1115 Sherwood Avenue, 1014 Haddonfield Road, and
1200 & 1208 Wynwood Avenue
Cherry Hill, NJ

Zone: Highway Business (B2) Zone and Limited Office (O1) Zone.

Relief Requested: Use d(1) variances to permit off-site parking for inventory storage of vehicles and preliminary and final major site plan with bulk (C) variances and a lot consolidation (of Block 135.01, Lots 9 and 10) to permit the construction of a 34,662 SF building expansion (consisting of a 9,395 SF mezzanine for a total GFA of 44,027 SF) to the new Land Rover/Jaguar dealership along with associated site improvements.

CONTINUED FROM THE JULY 1, 2020 SPECIAL MEETING OF THE ZONING BOARD OF ADJUSTMENT

Applicant's Representatives: Damien Del Duca, Esq. – Applicant's Attorney; Jay Sciuillo, PE, PP – Applicant's Engineer; Nathan Mosley, PE, PTOE – Applicant's Traffic Engineer; Joseph Catelli, RA – Applicant's Architect; James Miller, PP, AICP – Applicant's Professional Planner; and Amanda DiMattia – Applicant/MBJ Associates.

Exhibits Submitted by the Applicant: A-1: Building Rendering; A-2: Aerial; A-3: Overall Site Plan Rendering; A-4: Surrounding Area; A-5: Architectural Elevations; A-6: Overall Site Plan; A-7: Construction Phasing Plan; A-8: Detailed Site Plan West Portion; A-9: Detailed Site Plan East Portion; A-10: Grading Plan West Portion; A-11: Grading Plan East Portion; A-12: Utility Plan West Portion; A-13: Utility Plan East Portion; A-14: Landscaping Plan West Portion; A-15: Landscaping Plan East Portion; A-16: Lighting Plan; A-17: Landscaping and Lighting Detail Sheet; A-18: Truck Turning Movement Plan; A-19: Service Truck Turning Movement Plan; A-20: Signage Elevations; A-21: South Side Signage Elevations; A-22: Photos of Wynwood lots; A-23: Google street view of Wynwood; and A-24: Resolution POA 6747.

Chairman Rardin went over the procedures and logistics of the meeting and noted that the application will continue with the rest of the public comment period as there were members of the public from the prior hearing who were not able to give

testimony. Mr. Rardin stated that additional testimony from the public will be taken, for those who already spoke, if deemed necessary, as well as to hear from the objecting attorney, James Greenberg, and his client, Chip Pressman.

Public Comment: Greg Bruno of 107 West Miami Avenue stated that he is not favor of the proposed application and presented various reasons for why he believes the proposed off-site storage lot uses are not suitable in the neighborhood and believes there are more appropriate uses for the site.

Mr. Rardin disclosed that Mr. Bruno is a member of the Zoning Board but that he recused himself from the application and is only representing himself as an individual member of the public. Solicitor Diamantis affirmed the Chairman's statement and stated that no additional weight of his comments shall be given.

Deborah McClure of 1332 Wynwood Avenue stated that she is concerned with the encroachment of dealerships into the Locustwood neighborhood and is concerned about the loss of homes. Ms. McClure stated that she is concerned about the safety of the neighborhood's residents as it relates to test drives.

Raffe Kesayan of 1118 Sherwood Avenue stated that he lives behind the former Women's Center lot (Lot 12). Mr. Kesayan asked whether Lot 12 will restrict access on Sundays. Solicitor Zeller stated that the dealership is closed on Sunday's but Mr. Kesayan alluded to shoppers potentially walking the lot on Sundays. Mr. Kesayan asked whether that Lot will be gated in any way. Mr. Kesayan stated he is concerned about car carrier drivers will not know not to unload cars within the roadway. Mr. Kesayan asked about limiting hours for service of vehicles due to concerns about when and where they will take place.

Maxim Kaminsky and Natalya Mikhina, stated that they represent Maxim Management, a daycare, Sunny Days Children's Academy, operating at 1210 Chambers Avenue. Ms. Mikhina stated she is concerned about the safety of the parents, children, and staff that attend the daycare as it relates to possibly having an expanded dealership in the neighborhood. Mr. Kaminsky reiterated the concerns about the safety of the roadways related to test driving and speeding in the neighborhoods. Mr. Kaminsky stated he believes when people buy a new car, they want to test the acceleration of the vehicle. Chairman Rardin asked Mr. Kaminsky if he knows if it is Land Rover employees are the ones he is referencing as causing the safety issue and Mr. Kaminsky stated he is not sure. Chairman Rardin also reiterated that the applicant has agreed to not do test drives in the neighborhood. Mr. Kaminsky stated his daycare is licensed for 114 children but had under 100 children prior to COVID-19 and that they play at the back of the facility, not along the roadway. Discussion ensued about the admissibility of a letter submitted to the Township in February of 2019. Solicitor Zeller stated that the letter is superfluous but the comments concerning the safety issued raised over the years are noted.

Denise Tocco of 1019 Mercer Street stated she is concerned about the encroachment of the Land Rover dealership into the Locustwood neighborhood and the nuisances such as light, noise, pollution, and speeding that come with it. Ms. Tocco is concerned about the potential loss of property values and further expansion by Land Rover. Ms. Tocco is concerned about the lack of property maintenance on the existing Land Rover site. Ms. Tocco stated she is particularly concerned about the location of trash enclosure. Ms. Tocco submitted exhibits 6.1 through 6.7 showing site photographs of property maintenance issues on the Women's Center lot (Lot 12), the dealership lot (Lot 1), and the Wynwood lots (Lots 9 & 10). Ms. Tocco stated that the lack of property maintenance on the lots shows that they do not care about the neighborhood. Chairman Rardin asked that the applicant be prepared to address how they are going to address those issues.

Lisa Perrone of 1112 Warren Avenue submitted exhibit/attachment 8.1 showing a street map with an illustration on the Wynwood lots. Ms. Perrone noted that the adjoining lot (Lot 8) was approved as an off-site storage lot with a 50' residential buffer. Ms. Perrone asked that the applicant keep their proposal consistent and increase their buffer from 25' to 50'. Ms. Perrone submitted exhibit/attachment 8.2 showing a fence in the neighborhood and asked that the applicant switch their 6' cedar fencing to 8' tall vinyl fencing. Exhibit/attachment 8.3 and 8.4 showing the lighting plan for the Wynwood lots and the associated lighting details, respectively and stated she is concerned that some of the lighting does not have light shields and that they should be revised to have them (and also reduce light heads from 4 to 2 where applicable). Ms. Perrone noted the Noise Ordinance (Camden County) rules regarding loud noises and the penalties for not abiding by the rules. Ms. Perrone stated she is concerned about enforcement and penalties. Ms. Perrone asked the Zoning Board to write a letter to the Cherry Hill Township Police Department to enforce these laws. Lastly, Ms. Perrone reiterated previous concerned regarding safety in the neighborhood and wants to see more measures to ensure that left turns are prohibited out of the back of Lot 1 onto Mercer Street, and more signage to ensure no loading in the roadway and turning the intersection of Mercer Street and Wynwood Avenue into a 4-way stop. Chairman Rardin added that he would like to see the buffer increased on the Wynwood lots to 50' and have the applicant address possible increasing the height of the buffer fencing. Chairman Rardin stated that there is assumption when considering applications that laws will be followed but obviously enforcement is something that needs to be concerned.

Carlos Ruthner (previously sworn before the Board) of 1010 Mercer Street asked how many employee parking spots there will, the total number of employees, how many additional employees may be hired, and would there be sufficient parking spaces to accommodate all employees. Mr. Ruthner asked whether the auxiliary parking lots will only accommodate Land

Rover and Jaguar dealerships or also support the parking of their other operations, and if they will have enough parking to accommodate their inventory needs.

Frank Maloney (previously sworn before the Board) of 1207 Chambers Avenue wanted to note for the record that the Planning Board is going to be considering an application for the expansion of another dealership in the area on July 20th. Chairman Rardin stated that the application before the Board tonight is the only matter that they can take under consideration and that they cannot take into consideration a future application that has not yet been heard or decided.

Laura Anne Einhorn of 1017 Edgemoor Road stated her concerns with the existing dealership and the proposed expansion of the dealership. Ms. Einhorn noted her concerns with the safety of the neighborhood, the potential loss of property values, and concerns about whether Land Rover will be a good neighbor.

Alexander Esposito of 1111 Warren Avenue stated he is concerned about the impacts related to an expanded dealership such as noise, traffic, pollution (air, water, lighting, environmental etc.). Mr. Esposito stated how he believes the proposed application does not meet the spirit or intent of the Master Plan due to the perceived detrimental impacts of the proposed relief requests. Mr. Esposito noted some inaccuracies with the testimony and plans presented and believes this is relevant as it calls into question the justifications the applicant has attempted to make to justify the relief requests. Mr. Esposito noted what his general concerns are with a dealership in the neighborhood. Mr. Esposito had exhibit/attachment 7.3 re-shown to the Board which shows a video of two (2) vehicles with no license plates taking part in a drag race along Chambers Avenue. Similarly, attachment 4.1 displayed a video of a car alarm going off in the distance for approximately 1 minute and 30 seconds, and Mr. Esposito contends that this noise is a normal occurrence in the neighborhood. Mr. Esposito expressed dismay over a lack of meaningful enforcement (with tangible consequences) when dealing with the issues raised. Mr. Esposito reiterated his concern with the adequacy of the professional reports, such as the traffic report, that was presented. Mr. Esposito directed questions to Ms. DiMattia and asked her to address car alarms and using alarms to find vehicle and what happens if their plans to handle them quickly do not occur. Ms. DiMattia stated that the plans, as previously testified, has not failed as of yet and does not have a backup plan. Ms. DiMattia stated that she tested the Land Rover and Jaguar (as well as Volkswagen, Audi, and Porsche) vehicles regarding the length of car alarms and found they go off for a minute, then pause for 15 seconds, and then goes off for another minute before stopping entirely. Mr. Esposito stated that he is more concerned about employees purposefully tripping the alarm multiple times to find a vehicle. Chairman Rardin asked what happens if an employee violates the car finding policy and Ms. DiMattia stated that they would speak with the employee and if it became a recurring issue, they would terminate the employee. Mr. Esposito raised concerns about the state of the Wynwood Avenue lots as it relates to property maintenance. Mr. Esposito asked about permissibility of automobile dealerships along Haddonfield Road and Mr. Del Duca noted Mr. Miller's testimony regarding the history of zoning and permissibility of automobility uses along Haddonfield Road. Mr. Esposito asked Mr. Del Duca to explain the purpose of exhibit A-24 and discussion ensued regarding its purpose. Chairman Rardin reiterated that they do not consider other applications when making decisions on the present application.

A recess was taken at 10:18 PM and the meeting resumed at 10:27 PM.

James Greenberg, Esq. directed questions to Mr. Sciuillo in regard to exhibit A-8, specifically asking where the limit would be on the plans if MBJ would comply with all parking setbacks and landscaping on Lot 1, particularly along the Wynwood Avenue and Haddonfield Road curve. Mr. Richman noted that the ROW parking setback requirement is 20'. Mr. Sciuillo noted that there is no landscape buffering requirements to his clients' property as it is a non-residential property. A discussion ensued about what the NJDOT permits, if anything, within their ROW. Mr. Greenberg directed questions to Mr. Miller regarding the benefit of the public for the proposed variance requests for parking setbacks and Mr. Miller reiterated his testimony concerning, in his opinion, the benefits outweighing the detriments. Mr. Greenberg asked Mr. Miller to address his testimony concerning the off-site storage lots and what the benefits are to the Township and the residents. Mr. Miller noted that the existing residential uses are not permitted and that parking lots are a permitted accessory use (however, only when used in conjunction with a principal use). Mr. Miller stated he believes that parking lots along the Wynwood lots is the best use for those particular properties. Mr. Del Duca asked Mr. Miller to confirm whether the ROW parking setback of 0' along Haddonfield Road is an existing condition to which Mr. Miller confirmed. Mr. Miller also confirmed that the proposed use a parking lot along Wynwood Avenue would be a lower trip generator than a number of permitted uses in the O1 zoning district. The Department of Community Development's professionals reasserted that the 0' ROW setback condition is a pre-existing condition that is permitted to continue, even should the proposed application be denied.

Chip Pressman (previously sworn) of James Wynwood Avenue, LP at 1114 Wynwood Avenue asked the Board to consider the neighborhood's concerns.

Following the closure of the public comment period, Mr. Del Duca addressed the questions raised by the members of the public. Mr. Del Duca stated the applicant agrees to not have any unloading of vehicles within any Right of Way (ROW). Mr. Del Duca stated the applicant will work with the Zoning Board's professionals and the Township to put up additional signage indicating no unloading in the street and agreed to Title 39. Mr. Del Duca stated his client will work with the Board's

professionals to further deter illegal left hand turns onto Mercer Street when exiting Lot 1. Mr. Del Duca stated that if the applicant runs into employee parking shortages, they would instead remove and replace the inventory parking allotment. Mr. Del Duca submitted Exhibit A-3 and agreed to a condition of approval to widen the buffer along the north side of the Wynwood lots (Lots 9 and 10) to match the buffer from adjacent Lot 8 (approximately 50' buffer). Mr. Del Duca acknowledged that this would require site plan revisions which would reduce a number of parking spaces but would still want to ensure the circulation would allow the car carriers to navigate the site. Regarding having a gate on Lot 12 to restrict access, Ms. DiMattia stated that they would not agree to do so as they have found that gates would cause more issues. Regarding limiting service hours on Saturday, Ms. DiMattia stated that concerns related to traffic related to that on Sherwood Avenue is not true as the bay doors to the service shop are not along Sherwood Avenue but rather to the south of the property. Ms. DiMattia addressed emergency braking tests and noted that they do not do "slamming on the brakes" tests as part of their test drives. Ms. DiMattia stated that they will not have a "PA" speaker system on this site. Ms. DiMattia stated they currently have 28 employees on the site (not all working at the same time) and stated that with expansion, she believes parking will be sufficient for employees and that no employees will park along any roadways in the neighborhood.

Mr. Sciuillo addressed the location of the trash enclosure and noted that per exhibit A-3, there is landscaping and a masonry wall buffering the trash enclosure from the view of neighboring residential properties. Mr. Sciuillo added, however, that the applicant will work with the Zoning Board's professionals to see if a more suitable location for the trash enclosure can be found. Regarding fencing along the northern property line of the Wynwood lots, Mr. Sciuillo stated the applicant proposes a 6' tall wood (horizontal boards) fence and they would be agreeable to increasing the height to 8' subject to any variances that may be necessary and making sure that no site line issues are present. A discussion ensued regarding variances and it was determined a variance is needed as an 8' fence in a front yard (towards Mercer Street) is necessary as only a 6' high fence would be permissible. The applicant agreed to the 8' tall fence and that discussions would take place between the Board's professionals and the neighboring property owner, Ms. Johnson regarding acceptability. A discussion ensued about the 50' buffer and Ms. Shafiroff noted the lot is not completely square and asked for clarification about the line of the buffer to which Mr. Del Duca they would extrapolate the buffer from adjacent Lot 8 straight out to Mercer Street (causing a slightly less than 50' buffer as the buffer approaches Mercer Street. Mr. Sciuillo addressed the lighting plan on Wynwood Avenue and Mr. Sciuillo stated the lights closest to the residences have house side shields and all lights have full cut-off lenses. Mr. Sciuillo affirmed there would no light spillage onto neighboring residential properties. Mr. Del Duca affirmed that the applicant will only keep vehicles to be serviced on Lot 1.

Mr. Potter asked the applicant to address the noted property maintenance issues on the various lots. Ms. DiMattia stated that the applicant will address the property maintenance issues and that regular landscaping maintenance will be ensured as they do at their other dealerships. Mr. Richman indicated that the applicant, if approved, would be abating all of the property maintenance issues by way of the proposed site plan (with the new fencing, landscaping, etc.). Ms. DiMattia added that the cars on Lot 12 will only be cars to be sold, not vehicles in need of service. Ms. DiMattia added that no cars from other dealerships would be parked on their storage lots. Mr. Norman stated that he still has concerns regarding the lack of a concrete plan to address issues with car alarms. Ms. DiMattia addressed Mr. Norman's line of questioning by reiterating her testimony regarding the length of the alarms for Land Rover and Jaguar vehicles and noted that their objective is to reduce the amount of time an alarm may be going off if a situation occurs where the alarm goes off (i.e. theft, incidental, etc.). Ms. DiMattia also reiterated her previous testimony concerning the security team and cameras they have to address overnight issues. Mr. Sklar stated it would be good to have the applicant provide an email address or phone number to neighbors to reach out to if there is an issue and Ms. DiMattia stated she is perfectly fine with that and she would hope that would be reciprocated as part of a "neighborhood watch." Mr. Del Duca concluded by asking the Board to only judge this application and not by the behavior of the neighboring dealerships and recapping the reasons for the relief requests sought. Mr. Del Duca added that the dealership already exists and that commercial uses are sought on the Wynwood lots and Women's Center lot per the zoning map.

A discussion ensued about communicating to the Mayor and the Chief of Police the concerns raised by the Locustwood residents to see if their concerns can be more thoroughly reviewed and addressed in some manner. It was agreed that Solicitor Zeller would draw up a Resolution (in writing) address from the Zoning Board to the Township's professionals to look into the issues raised by the Locustwood residents. Subsequently, Board discussion ensued with Chairman Rardin first addressing the differences between what the Board can and cannot address as it relates to the concerns raised and then addressing the merits and facts of the case. Mr. Rardin ultimately stated that he supports the proposed application and the reasonings are better reflected on the record. Ms. Roth-Gutman stated that while she supports the variances requested on Lots 1 and 12, Ms. Roth-Gutman does not believe the request for the off-site parking lot on Lots 9 & 10 is justified. Mr. Potter stated that he will be voting in opposition of the current application as he believes it does not comply with the 2018 Master Plan and does not have faith that the applicant will be able to address the issues they stated they will attempt to address. Mr. Sklar stated most of his initial concerns with the application were addressed via testimony and conditions of approval, and has faith that the applicant will do their best to address all of the concerns. Mr. Norman stated he has been going back and forth regarding the applicant's requests and he sees the resident struggles and appreciates the applicant's plans to address them. Ms. Pejavara echoed the comments of her fellow Board members and regrets the lack of leadership from the applicant to address the issues that have been present. Mr. Potter clarified that he is in favor of the improvements

proposed on Lot 1 but not Lot 12 or Lots 9 and 10. Solicitor Zeller stated that the Board should consider addressing the Use Variances by way of separate votes for Lot 12 and Lots 9 and 10, and then a separate vote on the Preliminary & Final Major Site Plan and Bulk (C) Variances for Lot 1. Mr. Spevak stated he is in support of separate votes taking place and stated that the residents' concerns should be taken to the Township administration to see what can be done. Regarding the application, Mr. Spevak stated he supports the application related to the proposed improvements on Lots 1 and 12, but noted his conflicting thoughts on the proposal for Lots 9 and 10 based on all of the various testimony and viewpoints given. A discussion ensued regarding viewing the site as a total package.

Mr. Del Duca stated that they would like the Board to proceed with the votes on the use variances and that if Lot 12 is approved by Lots 9 and 10 are not, the applicant could still potentially get approval for the site plan and modify the plans to allow for some unloading operations on Lot 12 in lieu of Lots 9 and 10.

Motion to Approve the Use Variance for the Women's Center lot (Lot 12): A motion was made by Mr. Spevak and seconded by Mr. Sklar, with the noted conditions to approve the Use Variance for Lot 12. Affirmative votes were cast by Rardin, Sklar, Spevak, Norman, and Pejavara. No votes were cast by Potter and Roth-Gutman. The motion passes 5 to 2.

Motion to Approve the Use Variance for the Wynwood lots (Lots (& 10): A motion was made by Mr. Sklar and seconded by Mr. Norman, with the noted conditions to approve the Use Variance for Lots 9 & 10. Affirmative votes were cast by Rardin and Sklar. No votes were cast by Spevak, Potter, Norman, Roth-Gutman, and Pejavara. The motion is denied 2 to 5.

Motion to Approve for Preliminary Major Site Plan and Bulk (C) Variances on the Dealership Lot (Lot 1) and the Women's Center lot (Lot 12) only: A motion was made by Mr. Spevak and seconded by Mr. Sklar, with the noted conditions to approve the Use Variance for Lots 9 & 10. Affirmative votes were cast by Rardin, Sklar, Spevak, Potter, Norman, Roth-Gutman, and Pejavara. The motion passes 7 to 0.

RESOLUTIONS:

None.

Meeting Adjourned: 12:39 AM

ADOPTED: 7/16/20



JONATHAN RARDIN, CHAIRMAN

ATTEST:



COSMAS DIAMANTIS, ESQ.
ZONING BOARD SECRETARY