

**RESOLUTION
TOWNSHIP OF PEQUANNOCK
PLANNING BOARD
IN THE MATTER OF ARLENE M. PLATT
AND C. TUCKER PLATT
DECIDED ON MAY 17, 2010
MEMORIALIZED ON JUNE 21, 2010
MINOR SUBDIVISION EXTENSION APPROVAL**

WHEREAS, Arlene M. Platt and C. Tucker Platt, ("hereinafter "Platt" or "Applicant") have made application to the Pequannock Township Planning Board, (hereinafter "Planning Board"), for an extension of minor subdivision approval in order to subdivide the existing Lot 5, Tax Block 604 as designated on the Tax Map of the Township of Pequannock, (hereinafter "Township"), into two (2) lots for the construction of a single family dwelling on the newly created flag lot and the existing single family dwelling would continue to remain on the remainder lot, which premises are located at 101 Mountain Avenue, Pompton Plains, New Jersey 07444 and located in the R-22 Zone District, (hereinafter "R-22 Zone"); and

WHEREAS, the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-47(d) provides that minor subdivision approval shall expire 190 days from the date on which the resolution of municipal approval was adopted unless the minor subdivision is perfected pursuant to the statute; and

WHEREAS, the Applicant requests a one (1) year extension of time to perfect the minor subdivision;

WHEREAS, the Planning Board considered this matter at its public hearing on May 17, 2010, after the Board determined it had jurisdiction; and

WHEREAS, the Applicant was represented by Peter V. McArthur, Esq. (hereinafter "McArthur").

NOW, THEREFORE, the Planning Board makes the following findings of fact, based on evidence presented at its public hearings, at which a record was made.

The application before the Planning Board is a request for a one (1) year extension of time under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-47 in regard to the court ordered granting of minor subdivision approval which was memorialized in a resolution adopted by the Planning Board on December 21, 2009 for property known and designated as Block 604 Lot 5 on the Tax and Assessment Map of the Township of Pequannock which premises are located at 101 Mountain Avenue, Pompton Plains, New Jersey 07444 and located in the R-22 Zone District.

This matter was the subject of a prerogative writ trial before the Honorable B. Theodore Bozonelis, A.J.S..C. at the Morris County Courthouse, Morristown, New Jersey. The Court entered an order on November 2, 2009 reversing the decision of the Planning Board and directing that the matter be remanded to the Planning Board for the entry of a resolution granting the Platts' application for minor subdivision approval and ancillary "c" variance relief consistent with the trial court's oral opinion of October 21, 2009. Thereafter, in accordance with the order of the Court, the Planning Board adopted and memorialized a Resolution granting minor subdivision approval with ancillary "c" variance relief on December 21, 2009.

Pursuant to the Land Development Ordinances of the Township of Pequannock, Subsection 016.05.020 variances expire in one (1) year unless the Applicant has obtained a building permit relative to development on the site. In this instance, since the Resolution

was memorialized on December 21, 2009, the variances will expire, unless extended, on December 21, 2010.

However, with respect to the granting of minor subdivision approval, under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-47, the minor subdivision approval expires within 190 days of the date upon which the memorializing Resolution was adopted unless the minor subdivision is perfected. Therefore, the minor subdivision approval is due to expire on June 30, 2010 unless extended by the Planning Board. The Applicant appears before the Planning Board and seeks a one (1) year extension of time in regard to the granting of minor subdivision approval. In a letter dated May 5, 2010 to the Planning Board from the Applicant's counsel and represented to the Planning Board during the hearing, the reason for the request is stated as follows:

"The reason for the request for an extension is due to the fact that one of the Court ordered conditions, namely the client's procurement of a landscape easement from Dr. Henry has not yet been obtained. Dr. Henry is in the process of selling his house and was unable to give the easement directly to the Platts as he was concerned he would not be able to sell his house with it. Accordingly, the Platts had previously negotiated with a prospective buyer of the Henry property and had procured the easement through that prospective buyer. However, the real estate contract fell through. The Platts will endeavor to obtain the easement in the same fashion with prospective buyers in the future."

Accordingly, the Applicants are unable, at this time, to satisfy the Court ordered condition that the Applicants obtain a 5 foot permanent easement for landscaping purposes running with the land on the Henry property on Lot 6 Block 604 in favor of the proposed flag lot. This item involves Condition No. 14 of the memorializing Resolution.

The Applicant was granted minor subdivision approval in order to subdivide the

existing Lot 5 in Tax Block 604 into two (2) lots for the construction of a single family dwelling on the newly created flag lot and the existing single family dwelling would continue to remain on the remainder lot. The remainder lot would have a lot area of approximately 29,000 square feet in size and the flag lot would have a lot area of approximately 44,000 square feet in size.

There were no members of the public present expressing an interest in this application.

NOW, THEREFORE, the Planning Board hereby makes the following conclusions of law, based upon the foregoing findings of fact.

The application before the Board is a request for an extension of time in accordance with the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-47 in order to seek an extension of minor subdivision approval ordered by the Court by virtue of a Court order dated November 2, 2009, which Court ordered approval was memorialized in a Resolution adopted by the Planning Board on December 21, 2009. The Planning Board has jurisdiction to grant extensions to perfect minor subdivision approval under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-47. The Board specifically finds that the Applicant is required to obtain a 5 foot landscape easement from the present owner or future owner of Lot 6 in Block 604 consisting of a 5 foot permanent easement for landscaping purposes running with the land on said lot in favor of the proposed flag lot and being consistent with the stipulations by the Applicants on the record during the hearing process and consistent with the decision of the Court. The Board specifically finds that this condition is a condition precedent to perfecting the minor subdivision. The Board is satisfied that the Applicant is diligently pursuing efforts to comply with the order of the

Court as well as Condition No. 14 of the memorializing Resolution of approval. As a result, the Board determines that a one (1) year extension of time in order to perfect the minor subdivision approval may be granted at this time. The Board further determines that as to the ancillary "c" variance relief granted, the variances will expire unless extended on December 1, 2010. Therefore, at this time, there is no application before the Board to extend the variance relief. The Board further determines that all conditions contained in the Resolution granting minor subdivision approval and ancillary "c" variance relief as set forth herein will remain in full force and effect except as modified by the granting of a one (1) year extension of time to perfect the minor subdivision.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Township of Pequannock that the application of Arlene M. and C. Tucker Platt for property known and designated as Lot 5 in Tax Block 604 on the Tax and Assessment Map of the Township of Pequannock, located at 101 Mountain Avenue, Pompton Plains, New Jersey in the R-22 Zone district requesting a one (1) year extension of time with respect to extending the minor subdivision approval previously granted under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-47 is granted subject to the following terms and conditions:

1. The development of the parcel shall be implemented in accordance with the plans submitted and approved.
2. Payment of all fees, costs and escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board Secretary.
3. All terms and conditions of the Resolution granting minor subdivision approval and set forth in a Resolution memorialized by the Planning Board on December

21, 2009 shall remain in full force and effect with the exception of the Applicant being granted a one (1) year extension of time within which to perfect the minor subdivision approval, which time period shall run from June 30, 2010 through June 30, 2011.

4. The Applicant represents that all of its representations and stipulations made by it or on its behalf to the Township of Pequannock Planning Board are true and accurate, and acknowledges that the Planning Board specifically relied upon the said stipulations in the Board's granting of approval. If said representations and stipulations are false, this approval is subject to revocation.

5. This approval is granted strictly in accordance with any recommendations set forth on the record by the Planning Board at the time of the hearing on May 17, 2010.

6. Certificate that taxes are paid current to date of approval.

7. Subject to all other applicable rules, regulations, ordinances and statutes of the Township of Pequannock, County of Morris, State of New Jersey.

The undersigned secretary certifies the within Resolution was adopted by the Pequannock Township Planning Board on May 17, 2010 and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on June 21, 2010.



Roger Imfeld, Board Secretary

In favor:

Against:

Abstained:

Board Members Eligible to Vote:

**RESOLUTION
TOWNSHIP OF PEQUANNOCK PLANNING BOARD
IN THE MATTER OF LEKSA CORP. t/a GAME POINT
DECIDED ON MAY 17, 2010
MEMORIALIZED ON JUNE 21, 2010
APPLICATION FOR SIGN APPROVAL**

WHEREAS, Leksa Corp. t/a Game Point ("hereinafter "Applicant") has made application to the Pequannock Township Planning Board, (hereinafter "Planning Board"), for property known and designated as Tax Block 1904, Lot 5, on the Tax Map of the Township of Pequannock, (hereinafter "Township"), which premises are located at 583 Newark Pompton Turnpike, Pompton Plains, New Jersey and located in the C-1 Community Business District (hereinafter "C-1 Zone"); and

WHEREAS, the Applicant has applied to the Pequannock Township Planning Board for approval pursuant to the Code of the Township of Pequannock Chapter 153 Signs which authorizes the Planning Board to review and approve all sign applications within the Township; and

WHEREAS, a public hearing was held on May 17, 2010 after the Planning Board determined it had jurisdiction; and

WHEREAS, the Applicant was not represented by legal counsel.

NOW, THEREFORE, the Planning Board makes the following findings of fact, based on evidence presented at its public hearing, at which time a record was made.

The within application is for premises known and designated as Tax Block 1904, Lot 5 on the Tax and Assessment Map of the Township of Pequannock, and located at 583 Newark Pompton Turnpike, Pompton Plains, New Jersey. The subject site is located in the C-1 Zone.

The following documents were submitted in connection with this application for development:

1. Completed Sign Application, signed by Elizabeth Wasilewski and dated April 30, 2010.
2. Sign drawing, consisting of one (1) sheet depicting a sign 2.5 feet in height by 8 feet in length.

Testifying on behalf of the Applicant was Elizabeth Wasilewski (hereinafter, "Wasilewski"). The subject site is an existing commercial store front that is part of a two story structure with additional commercial residential uses. The Applicant seeks to locate a building attached sign on the façade above the entrance door to the space that she will occupy in connection with her business. The proposed building attached sign is 2.5 feet in height by 8 feet in length for a total sign area of 20 square feet. The Applicant indicated the sign would be back lit. The Applicant also stipulated that she would comply with the ordinance requirements that the sign shall not be illuminated between the hours of 11:00 p.m. and 6:00 a.m. The text on the sign will read "Game Point Try It Trade It" with a logo.

The meeting was opened up to the public and there were no members of the public present expressing any interest in the within application.

NOW, THEREFORE, the Planning Board hereby makes the following conclusions of law, based upon the foregoing findings of fact.

Leksa Corp. t/a Game Point is the Applicant for premises known and designated as Tax Block 1904, Lot 5 on the Tax and Assessment Map of the Township of Pequannock, which premises are commonly known as 583 Newark Pompton Turnpike, Pompton Plains, New Jersey. The subject site is located in the C-1 Zone.

The Applicant seeks approval to install a building attached sign on the façade above the entrance door to the Applicant's place of business. The proposed attached sign is 2.5 feet in height by 8 feet in length for a total sign area of 20 square feet. Pursuant to the land development ordinances of the Township of Pequannock, and more specifically Section 153.06(B)(1)(c) a building attached sign in the C-1 Zone is permitted to have a maximum sign area of 24 square feet. Therefore, the Applicant's proposed sign complies with the ordinance requirements. The Applicant has also stipulated that the sign will be back lit and will not be illuminated between the hours of 11:00 p.m. and 6:00 a.m. Pursuant to the land development ordinance of the Township of Pequannock and more specifically Section 153.06(B)(1)(f) signs may be illuminated when a business is open but no sign shall be illuminated between the hours of 11:00 p.m. and 6:00 a.m. As a result, the Applicant has agreed to comply with the ordinance requirements regarding the illumination of signage. The Board also finds that the proposed application for sign approval complies with all of the ordinance requirements for a building attached sign in the C-1 Zone and, as such, the Applicant requires no waiver relief in regard to this application.

Upon consideration of the plans, testimony and application, the Board determines that the Applicant has submitted sufficient information so as to enable the Board to render an informed decision with regard to the request for sign approval. The Board determines that it is appropriate to grant the application for signage as proposed by the Applicant and presented to the Planning Board during the hearing process on May 17, 2010.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Township of Pequannock that the application of Leksa Corp. t/a Game Point for premises designated as Tax Block 1904, Lot 5 on the Tax and Assessment Map of the Township of

Pequannock and located at 583 Newark Pompton Turnpike, Pompton Plains, New Jersey in the C-1 District requesting sign approval is determined as follows:

1. Approval is granted to enable the Applicant to install a building attached sign on the façade of the building above the entrance door to the Applicant's business, which sign is 2.5 feet in height by 8 ft in length for a total sign area of 20 square feet, which is in conformance with the land development ordinances of the Township of Pequannock and more specifically Section 153.06(B)(1)(c).
2. The Applicant shall comply with all appropriate terms and conditions of the Township of Pequannock Code Chapter 153 signs.
3. The Applicant represents that all of its representations and stipulations made by it or on its behalf to the Township of Pequannock Planning Board are true and accurate, and acknowledges that the Planning Board specifically relied upon the said stipulations in the Board's granting of approval. If said representations and stipulations are false, this approval is subject to revocation.
4. This approval is granted strictly in accordance with any recommendations set forth on the record by the Planning Board at the time of the hearing on May 17, 2010.
5. The granting of this application is subject to and conditioned upon the signage not being illuminated between the hours of 11:00 p.m. and 6:00 a.m.

6. Payment of all fees, costs and escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board Secretary.
7. Subject to all other applicable rules, regulations, ordinances and statutes of the Township of Pequannock, County of Morris, State of New Jersey or any other jurisdiction.

The undersigned secretary certifies the within Resolution was adopted by this Planning Board on May 17, 2010 and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on June 21, 2010.



Roger Infeld, Board Secretary

In favor:

Against:

Abstained:

Board Members Eligible to Vote:

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