

**TOWNSHIP OF PEQUANNOCK ZONING BOARD OF ADJUSTMENT
RESOLUTION OF MEMORIALIZATION**

MORRIS COUNTY, NEW JERSEY

MATTER OF: Janel Builders, Inc.

PROPERTY LOCATION: Block 4402, Lot 7, 6 Industrial Road

APPROVED: August 6, 2015

MEMORIALIZED: September 3, 2015

WHEREAS, Janel Builders, Inc. (“Applicant”) has requested site plan approval, a bulk variance for maximum impervious surface coverage and flood plain development approval for property located at 6 Industrial Road, known and designated as Block 4402, Lot 7 on the Tax Maps of the Township of Pequannock (“Township”) in the “I-1” zone district (“Property”); and

WHEREAS, a public hearing was held on the application before the Zoning Board of Adjustment of the Township of Pequannock (“Board”) on August 6, 2015; and

WHEREAS, the Board heard the testimony by Applicant’s representatives and experts, as well as receiving testimony from the Board’s own experts; and

WHEREAS, Applicant, represented by Lindsay R. Janel, Esq., filed an Affidavit of Proof that Notice of Hearing was given as required by law; and

WHEREAS, a complete application has been filed, the fees required by ordinance have been paid, and the jurisdiction and powers of the Board have been properly invoked and exercised;

NOW, THEREFORE, BE IT RESOLVED that the Board makes the following findings of fact with regard to the application.

1. Applicant provided adequate notice of the application and the hearing in accordance with the New Jersey Municipal Land Use Law, N.J.S.A. 40:55-D-1 et seq. (“MLUL”).

2. The Property, owned by Janel Builders, Inc., measures 86,640 square feet and is located at Block 4402, Lot 7, 6 Industrial Road, in the Township's Industrial I-1 zone district.

3. The Property is improved with the former Bell Arts Building, a two (2) story masonry structure which measures approximately forty thousand square feet (40,000 s.f.) in area ("Building").

4. The Building was formerly used for the manufacturing of medical equipment. A paved parking area is also located on the Property.

5. The Property has 342 feet of frontage on Industrial Road and lot depth which varies from 218 to 252 feet.

6. There are no residential uses in the vicinity of the Property.

7. The Building is undergoing renovations and will be divided into eleven (11) leaseable spaces, with nine (9) spaces on the first floor and two (2) on the second floor.

8. The Board has previously granted two (2) approvals for uses at the Property. On December 4, 2014, memorialized by Resolution adopted by the Board on February 5, 2015, applicant Gold Glove Academy LLC received use variance approval for the utilization of Unit #10 at the Building as a baseball training facility.

9. On February 5, 2015, memorialized by Resolution adopted by the Board on March 5, 2015, applicant Thunder Gloves LLC received use variance approval for the utilization of Unit #3 at the Building as a personal fitness training facility.

10. The full record of the aforesaid two (2) applications and all terms and conditions of their memorializing Resolutions are incorporated by reference herein as it set forth at length.

11. Condition of Approval #7 of the March 5, 2015 Resolution of Memorialization for Thunder Gloves, LLC expressly required Applicant prepare and file an application with the Board no later than April 6, 2015 for site plan approval for the Property. Applicant has filed the instant application in satisfaction of that condition.

12. Applicant seeks to remove portions of its existing parking area at selected locations along the perimeter of the Property. The removed portions of the parking area will be replaced with topsoil and seed and will remain at the same elevation. Four (4) new trees will also be installed at the Property.

13. Applicant also proposes the installation of a secondary gravel driveway at the southern end of the Property to access the southern side of the Building, the installation of a portable ramp at the south end of the Building and the installation of slate walkways and a paved loading area/loading dock at the east side of the Building.

14. Applicant also seeks to repair depressed pavement in the area of drainage inlets on the west side of the Property and install four (4) dumpster enclosures on the north and west sides of the Property.

15. The installation of the driveway, portable ramp, walkways and loading areas will result in a net increase in impervious surface coverage at the Property from 77.2% to 82.6%, necessitating a bulk variance from the requirements of the Township Zoning Ordinance (“Zoning Ordinance”), which permits a maximum impervious surface coverage of 75%.

16. The proposed development will also take place in a flood plain. The ground elevation (in relation to mean sea level) of the Property ranges from 175.59 feet to 178.41 feet. The elevation of the lowest support member of the Building is 178.86 feet.

17. Pursuant to applicable Federal Emergency Management Administration (“FEMA”) maps and/or Letter(s) of Map Amendment(s) (“LOMA”) thereto, the appropriate elevation of the Building for a one hundred (100) year flood would be 181.5 feet. Therefore, Applicant will require flood plain development approval from the Board.

18. Applicant’s proposal is depicted on plans prepared by Stewart Surveying and Engineering, LLC, Alfred A. Stewart, Jr., P.E., P.L.S., entitled “Site Plan For 6 Industrial Road, Lot 7, Block 4402, Township of Pequannock, Morris County, NJ” consisting of two (2) sheets, dated February 3, 2015, revised as of June 9, 2015.

18. The Board also received a report from the Township Engineer, Joseph R. Golden, P.E., P.P., C.M.E., dated May 18, 2015 with regard to the application. Said report is incorporated by reference as if set forth at length herein.

19. Applicant’s attorney, Ms. Janel, briefly summarized the application before the Board.

20. The Board concurrently heard the testimony of Alfred A. Stewart, Applicant’s Engineer, and Michael Janel, the owner of the Property and Applicant’s Principal.

21. Applicant seeks site plan approval to perform certain revisions and upgrades at several locations on the Property.

22. Said revisions and upgrades include removal of portions of Applicant’s existing parking area at selected locations along the perimeter of the Property and replacement of the removed portions of the parking area with topsoil and seed.

23. Re-striping, or removal of parking striping, will also be done at selected locations on the Property.

24. Applicant will install four (4) new trees at the Property and will install new landscaping in the area of Applicant's monument sign at the northeast corner of the Building.

25. The Township Planner, Jill Hartmann, P.P., A.I.C.P, recommended, and Applicant agreed, to prepare and supply a landscaping plan which will be subject to the review and approval of Ms. Hartmann. This will be a condition of approval.

26. Two (2) areas of depressed pavement, the locations of drainage inlets on the west side of the Property, will also be repaired.

27. Four (4) new dumpster enclosures will also be installed on the north and west sides of the Property

28. In addition, Applicant seeks to install a portable M3500 Series "Adapt-A-Ramp" (or equivalent) at the south end of the Building. Slate walkways and a paved loading area/loading dock will also be installed at the east side of the Building.

29. Applicant will also remove all building debris presently existing at the Property and produced by the proposed development and dispose of same.

30. The Board expressed concern with numerous inconsistencies, mislabeling and incorrect calculations of lot and block numbers, square footage, parking space (especially on the south side of the Property) and lot coverage calculations, and other errors on Applicant's plans.

31. A number of these problems also were present in the plans presented with the two (2) previous applications involving the Property, Applicant had, at those times, assured the Board that these problems would be corrected.

32. Mr. Janel and Mr. Stewart testified that all errors on Applicant's plans will be corrected to the satisfaction of the Board's Planner and Engineer. This will be a condition of approval.

33. With regard to the variance for impervious surface coverage, the Board suggested, and Applicant agreed, that there shall be no further increase in impervious coverage at the Property from the 82.6% requested by Applicant in the instant application, and that this figure shall be a "hard cap" on such coverage. This will be a condition of approval.

34. Applicant also agreed that it would comply with the comments and recommendations set forth in Mr. Golden's engineering report of May 18, 2015. This will be a condition of approval.

35. Turning to the proposed installation of a portable ramp to access the south side of the Building, Mr. Janel testified that said ramp is not a fixture and will only be utilized when needed by a tenant. The ramp will mostly be used for loading of vehicles.

36. The Board suggested, and Applicant agreed, that the ramp will be removed from the Property when it is not in use. This will be a condition of approval.

37. The Board also suggested, and Applicant agreed, that the ramp will not be stored at the Property. This will be a condition of approval.

CONCLUSIONS OF LAW

Based upon the foregoing findings, the Board makes the following conclusions of law:

1. Applicant has shown by testimony, exhibits and other evidence that the relief sought can be granted.

2 Applicant's site plan application conforms to the requirements of the Township Zoning Ordinance and MLUL and will promote the purposes of the I-1 zone district as set forth in the Township' Master Plan.

3. Accordingly, the Board concludes that the application for site plan approval, as proposed, is in the public interest and is hereby granted, subject to the relief further granted herein and any conditions related thereto.

4. Applicant's request for flood plain development approval can be granted. The deviation from the 100-year flood elevation, though not insubstantial, is necessary due to the existing conditions at the Building. The strict application of the prevailing flood plain requirements to the Building would impose an unreasonable hardship on Applicant.

5. Accordingly, the Board concludes that the application for flood plain development approval, shall be is hereby granted, subject to the relief further granted herein and any conditions related thereto.

6. The variance from Zoning Ordinance requirements for maximum impervious surface coverage can be granted.

7. While the changes planned by Applicant to the Property will increase impervious surface coverage thereon, there will be no intensification of the uses at the Property.

8. The addition of the gravel driveway and installation of the portable ramp will improve vehicle ingress, egress and circulation at the Property, thereby enhancing safety. This is a purpose of zoning pursuant to the MLUL, N.J.S.A. 40:55D-2(a).

9. The proposed improvements will also enhance the Property's attractiveness and utility for a variety of uses to meet the needs of the public. This is also a purpose of zoning pursuant to the MLUL, N.J.S.A. 40:55D-2(g).

10. Based upon the foregoing, the benefits to be obtained from permitting the variance will substantially outweigh any detriments caused thereby.

11. The variance will result in neither a substantial detriment to the public good nor a substantial impairment of the intent and purpose of the Township's Master Plan and Zoning Ordinance.

12. Accordingly, the Board concludes that a variance from Zoning Ordinance requirements for maximum impervious surface coverage at the Property shall be and hereby is granted under the authority conferred upon the Board pursuant to N.J.S.A. 40:55D-70(c)(2).

NOW, THEREFORE, BE IT RESOLVED, the Board having reviewed the application and considered the impact of the proposal on the Township and its residents, and having determined whether the proposal is in furtherance of the purposes of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., and the intent and purpose of the Zoning Ordinance and the laws of the Township of Pequannock and whether the proposal is conducive to the orderly development of the Property and the general area in which it is located, the Board concludes that good cause has been shown to grant the Applicant's request for site plan approval, a bulk variance for maximum impervious surface coverage and flood plain development approval. The Board voted on February 5, 2015 to approve the application for development as above described.

BE IT FURTHER RESOLVED that the Board hereby memorializes the approval of the application for development subject to the following terms and conditions:

1. Applicant shall submit proof of payment of all real estate taxes applicable to the property.
2. Applicant shall submit a copy of this Resolution with accompanying documentation to verify the satisfaction of each condition stated herein to the Township Zoning Official. Said documentation shall be numbered to indicate compliance with these conditions.
3. Applicant shall pay in a timely manner all outstanding and future fees, including, but not limited to, development fees, escrow charges, connection fees and usage fees, and shall post all performance and maintenance bonds and guarantees in connection with the review of this application prior and subsequent to the approval of this application.
4. Applicant shall be bound by all representations made in testimony, exhibits and reports presented to the Board as well as all representations set forth in the transcripts of the hearing on the date referred to above and shall comply with all reports and comments submitted by the Board or Township Planner and/or Township Engineer in connection with the application.
5. Applicant shall obtain the approval of any and all other necessary and appropriate City, County, State and Federal governmental agencies and comply with any and all governmental regulations except those specifically waived or modified in this Resolution.
6. Applicant shall comply with the comments and recommendations set forth in the May 18, 2015 report of the Township Engineer except as modified in this Resolution.
7. Applicant shall correct all mislabeled and/or incorrect lot and block numbers on Applicant's plans and shall also show the corrected lot and block numbers on its key map.

8. Applicant shall correct the mislabeled and/or incorrect square footage measurements for Units 5, 6, 7 and 8 on Applicant's plans. Said measurements shall be reconciled to and/or in agreement with Applicant's plans.

9. Applicant shall verify the accuracy of the number of spaces and measurements of said spaces on the south side of the Property and correct its plans as necessary.

10. All corrections and revisions to Applicant's plans as required by Conditions 7, 8 and 9 above shall be subject to the review and approval of the Township Planner and Township Engineer.

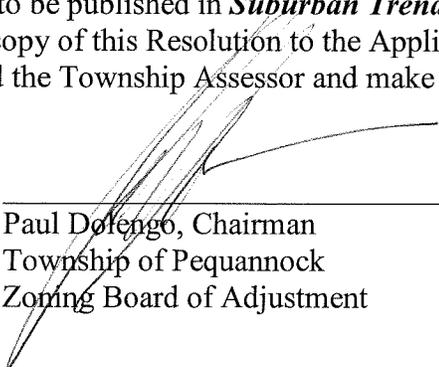
11. Applicant shall prepare and submit a landscaping plan for the Property for the review and approval of the Township Planner.

12. Applicant shall make no further increases in impervious surface coverage at the Property beyond the 82.6% approved in this Resolution, and this figure shall be a "hard cap" on such coverage.

13. Applicant's ramp shall be removed from the Property when it is not in use.

14. Applicant's ramp shall not be stored at the Property.

BE IT FURTHER RESOLVED, that the Board Secretary is hereby authorized and directed to cause a notice of this Resolution to be published in *Suburban Trends* at the Applicant's expense and to send a certified copy of this Resolution to the Applicant, the Township Clerk, the Township Engineer and the Township Assessor and make same available to all other interested parties.



Paul Dofengo, Chairman
Township of Pequannock
Zoning Board of Adjustment

I hereby certify this to be a true and accurate copy of a resolution adopted by the

Township of Pequannock Zoning Board of Adjustment, Morris County, New Jersey, at a public meeting held on September 3, 2015.

Linda Zacharenko 9/3/15

Linda Zacharenko, Secretary
Township of Pequannock
Zoning Board of Adjustment

The Vote on the Resolution to approve this Memorialization was as follows:

Yes: *Hebert, Mellenso, Vitcavich, Way, Dolengo*

No:

Abstain: