

**RESOLUTION
TOWNSHIP OF PEQUANNOCK
PLANNING BOARD
IN THE MATTER OF ABN REALTY CO., LLC
(LEGACY CASTLE)
DECIDED ON DECEMBER 19, 2016
MEMORIALIZED ON JANUARY 9, 2017
APPLICATION FOR SIGN APPROVAL**

WHEREAS, ABN Realty Co., LLC (“Legacy Castle”) (“hereinafter “Applicant”) has filed an application with the Township of Pequannock Planning Board (hereinafter “Planning Board” or “Board”), for sign approval for property known as Block 2705, Lot 2, on the Tax Assessment Map of the Township of Pequannock (hereinafter “Township”), which premises are located at 141 Route 23 South, Pompton Plains, New Jersey, and located in the C-4 Regional Commercial Zone District (hereinafter “C-4 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 189.13, Signs, which authorizes the Planning Board to review and approve all sign applications within the Township; and

WHEREAS, a public hearing was held on December 19, 2016, after the Planning Board determined it had jurisdiction; and

WHEREAS, the Applicant was represented by A. Michael Rubin, Esq.

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 Block 2705, Lot 2, on the Tax Assessment Map of the Township of Pequannock and located at 141 Route 23 South, Pompton Plains, New Jersey. The subject site is located in the C-4 Zone District.

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

1. Completed Sign Application, signed and dated October 11, 2016.
2. Completed Variance Application signed and dated October 11, 2016.
3. Entry Sign-Location Plan, consisting of 2 sheets, prepared by Jeffrey D. Reeves, PE of Dresdner Robin, dated September 27, 2016.
4. Floor Plan/Elevation/Sections Plan, consisting of 4 sheets, prepared by Louis A. Salamone, AIA, dated September 16, 2016.

In addition, the Board also considered a review report from Jill A. Hartmann, P.P., AICP, Planner to the Pequannock Township Planning Board which report was dated November 18, 2016 and revised November 21, 2016.

Testifying on behalf of the Applicant was Gary Hillen. Mr. Hillen represented that he is the Director of Land Development and Acquisitions for ABN Realty Co., LLC. Mr. Hillen reviewed with the Board the Entry Sign-Location Plan consisting of two (2) sheets prepared by Jeffrey D. Reeves, P.E. of Dresdner Robin dated September 27, 2016 as well as the Floor Plan/Elevation/Sections Plan consisting of four (4) sheets prepared by Louis A. Salamone, AIA dated September 16, 2016.

Mr. Hillen explained that the Applicant seeks approval to construct two (2) freestanding signs. One (1) sign will have three faces along the Route 23 entrance to the Legacy Castle catering facility. The second freestanding sign is a flag pole with a USA flag annexed to it along with a flag for the Legacy Castle. The Applicant requires variance relief in regard to the sign area of the freestanding sign as well as for the second freestanding sign which is for the Legacy Castle flag. The proposed monument sign has three faces which total approximately 132 square feet. Under the Township Ordinance, the maximum sign area for a freestanding sign is 50 square feet.

In regard to the flag pole with the Legacy Castle flag on it, the Applicant agreed to reduce the height of the freestanding flag pole from 25 feet to 24 feet to comply with the Ordinance requirements. Thus, the Applicant needs relief from the Township's Sign Ordinance in order to install a second freestanding sign which is the Legacy Castle flag on the flag pole.

Mr. Hillen explained that in regard to the means of ingress and egress off of Route 23 South, the Applicant is proposing a monument sign with three (3) sign faces of which two (2) sign faces will contain the text "the Legacy Castle" and one (1) sign face will contain a logo with the initials "LC" for the Legacy Castle. The monument sign will also consist of a stone veneer to match the building with Arcusstone columns which will also match the construction materials used for the building itself. The Applicant is also proposing 100 Watt HPS Small Flood Jemm Lighting in order to illuminate the freestanding signs. There will be three (3) lights for each sign face for a total of nine (9) flood lights. The Applicant is also proposing Kichler Tournai 9559 Londonderry light fixtures on top of the column for each corner of the sign monument.

Mr. Hillen provided testimony in support of the granting of variance relief. Mr. Hillen testified that much thought went into the decision to provide signage for the site. A decision was made to create a three (3) sided freestanding sign with signage to identify the Legacy Castle. Mr. Hillen stated that the design of the freestanding sign as well as the flag pole would serve to clearly demark the entrance to the Legacy Castle off of Route 23 South and would help to facilitate access to the site.

Mr. Hillen further testified that the Applicant is proposing entrance piers, planters and gates at both the Route 23, as well as Alexander Avenue entrance to the site. Mr. Hillen explained that the gates would not be locked. As a result of the discussions between the Applicant and the Board, the Applicant agreed to provide a turnaround area before the gated entrance so that a vehicle can proceed up to the gate and turn around to go back on Route 23 South without proceeding past the

entry gate to the site. Mr. Hillen also stated that the gates would be opened and closed manually and that the gates would remain unlocked. Mr. Hillen further stated that the Applicant would install pavers in the turnaround area in order to facilitate vehicles turning around once they entered the access driveway.

The meeting was opened to the public and the Board was addressed by William Strauss, the owner of the Volkswagen/Toyota Dealerships located at 730 Route 23 North. Mr. Strauss supported the application as a means to continue to upgrade Route 23. There were no other members of the public present expressing an interest in this application.

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

ABN Realty Co., LLC is the Applicant for premises known and designated as Block 2705, Lot 2, on the Tax Assessment Map of the Township of Pequannock and located at 141 Route 23 South, Pompton Plains, New Jersey, which site is located in the C-4 Zone. The application before the Board seeks sign approval to construct two (2) freestanding signs. One (1) sign will have three (3) faces along the Route 23 South entrance to the Legacy Castle catering facility that will serve as a sign in entrance driveway divider. The second freestanding sign is a flag attached to the proposed flag pole along with the USA flag. The plans submitted on behalf of the Applicant depicts interior entry gates and an elaborate entrance gate system located across the main entry driveway. The submitted plan also shows a planted entrance driveway divider along with interior entry gates and an elaborate entry fence, located across the Alexander Avenue entrance driveway.

The Municipal Land Use Law, at N.J.S.A. 40:55D-70c provides Boards with the power to grant variances from strict bulk and other non-use related issues when the applicant satisfies certain specific proofs which are enunciated in the Statute. Specifically, the applicant may be entitled to relief if the specific parcel is limited by exceptional narrowness, shallowness or shape. An applicant

may show that exceptional topographic conditions or physical features exist which uniquely affect a specific piece of property. Further, the applicant may also supply evidence that exceptional or extraordinary circumstances exist which uniquely affect a specific piece of property or any structure lawfully existing thereon and the strict application of any regulation contained in the Zoning Ordinance would result in a peculiar and exceptional practical difficulty or exceptional and undue hardship upon the developer of that property. Additionally, under the c(2) criteria, the applicant has the option of showing that in a particular instance relating to a specific piece of property, the purpose of the act would be advanced by allowing a deviation from the Zoning Ordinance requirements and the benefits of any deviation will substantially outweigh any detriment. In those instances, a variance may be granted to allow departure from regulations adopted, pursuant to the Zoning Ordinance.

Those categories specifically enumerated above constitute the affirmative proofs necessary in order to obtain “bulk” or (c) variance relief. Finally, an applicant must also show that the proposed variance relief sought will not have a substantial detriment to the public good and, further, will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance. It is only in those instances when the applicant has satisfied both these tests, that a Board, acting pursuant to the Statute and case law, can grant relief. The burden of proof is upon the applicant to establish these criteria.

The Applicant requires ancillary “c” or bulk variance relief in regard to Pequannock Township Code Section 189.13.060(B)(2)(b) which permits only one (1) freestanding sign and the Applicant is proposing two (2) freestanding signs consisting of one (1) freestanding sign with three (3) sign faces along the Route 23 site frontage and one (1) freestanding sign consisting of a 24 foot in height flag pole with a Legacy Castle flag located thereon.

The Applicant also requires ancillary “c” or bulk variance relief from Section 189.13.060(B)(2)(c) which permits a freestanding sign to have a maximum sign area of 50 square feet and the Applicant is proposing a freestanding sign area not to exceed 132 square feet.

The Board accepts the representations of Mr. Hillen that the location of the freestanding signs and the sign area of the freestanding signs are necessary to demark the entrance to the catering facility off of Route 23 South. The Board finds that signage which is not large enough to be readily readable by passing vehicles can create a traffic hazard, and in the case of vehicles traveling at a higher rate of speed along Route 23 South, the Board determines that it is necessary to increase the sign area for signage in order to promote public safety, which satisfies one of the purposes of zoning under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-2. The Board further finds that the freestanding sign and freestanding pole sign are both appropriate in order to facilitate motorists identifying the entrance to the Legacy Castle particularly because the Legacy Castle is set back a significant distance off of Route 23. The Board determines that it is important to facilitate safe access to the site by enhancing the visibility of the entrance.

The Board also accepts the representations of the Applicant that it will install pavers in the area behind the freestanding sign and before the entry gates in order to permit vehicles the opportunity to turn around and to safely access Route 23 South.

The Board further accepts the representations of the Applicant that the height of the flag pole will be reduced to 24 feet in order to conform to Ordinance requirements.

The Board finds that the Applicant has satisfied both the positive and negative criteria under the Municipal Land Use Law. More specifically, the Board finds that the granting of the application for sign approval can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and Zoning Ordinance. The Board further finds that the purposes of the Municipal Land Use Law would be advanced by a deviation

from the Zoning Ordinance requirements and the benefits of the deviation substantially outweigh any detriment, thereby allowing the Board to grant ancillary “c” or bulk variance relief in regard to this matter. The Board, therefore, finds that it is appropriate to grant ancillary “c” or bulk variance relief under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70c(2).

Upon consideration of the plans, testimony and application, the Board determines that the applicant has provided 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 as amended by the Planning Board throughout the hearing process inclusive of the granting of ancillary “c” or bulk variance relief.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Township of Pequannock, that the Application of ABN Realty Co., LLC for premises commonly known as Block 2705, Lot 2, on the Tax Assessment Map of the Township of Pequannock, and located at 141 Route 23 South, Pompton Plains, New Jersey, in the C-4 Zone District and requesting sign approval, is determined as follows:

- A. Approval is hereby granted to enable the Applicant to install one (1) freestanding sign with three (3) sign faces along the Route 23 site frontage and one (1) pole sign not to exceed 24 feet inclusive of a USA flag and a flag for the Legacy Castle. The approval for the second freestanding sign is granted under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70c(2).
- B. Approval is also granted to permit the proposed monument sign which has three (3) faces to have a total sign area not to exceed 132 square feet. This approval is granted under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70c(2).

IT IS FURTHER RESOLVED that the above land use relief is granted subject to the following terms and conditions:

1. The Applicant shall comply with all appropriate terms and conditions of the Township of Pequannock Code Chapter 189.13 – Signs.
2. 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 said stipulations in the Boards granting of approval. If said representations and stipulations are false, this approval is subject to revocation.
3. This approval is granted strictly in accordance with any recommendations set forth on the record by the Planning Board at the time of the public hearing on December 19, 2016.
4. The granting of this Application is subject to and conditioned upon the Applicant complying with all terms and conditions set forth in the Board Planner’s review reports dated November 18, 2016 and revised November 21, 2016.
5. The granting of this Application is subject to and conditioned upon the Applicant providing a turnaround area before the gated entrance to permit vehicles to turn around for access to Route 23 South without proceeding past the entry gate to the site. The gates will be opened and closed manually and the gates will remain unlocked. The Applicant shall install pavers in the turnaround area as represented on the record during the public hearing.
6. All terms and conditions of the Board’s prior approvals shall remain in full force and effect except as satisfied or amended and not in conflict with this approval.
7. 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.
8. Certificate that taxes are paid current to date of approval.
9. 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 December 19, 2016, and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on January 9, 2017.



Board Secretary

In favor:

Against:

Abstained:

Board Members Eligible to Vote: