

**RESOLUTION  
TOWNSHIP OF PEQUANNOCK  
PLANNING BOARD  
IN THE MATTER OF PATRICIA WOJTYSZYN and DONNA PERILLO  
d/b/a CENTURY 21 CREST REAL ESTATE, INC.  
DECIDED ON DECEMBER 7, 2020  
MEMORIALIZED ON JANUARY 11, 2021  
APPROVAL FOR RENOVATION OF EXISTING  
FREE-STANDING SIGN AND “c” VARIANCE RELIEF**

**WHEREAS**, Patricia Wojtyszyn and Donna Perillo d/b/a Century 21 Crest Real Estate, Inc. (hereinafter “Applicants”) have made application to the Pequannock Township Planning Board, (hereinafter “Board” or “Planning Board”), for property known and designated as Block 2704, Lot 4, on the Tax Assessment Map of the Township of Pequannock, (hereinafter “Township”), which premises are located at 142 Route 23 North, Pompton Plains, New Jersey 07444 and located in the C-3 Regional Commercial District, (hereinafter “C-3 Zone”); and

**WHEREAS**, the Applicants have applied to the Pequannock Township Planning Board for approval pursuant to the Code of the Township of Pequannock Chapter 189 Signs which authorizes the Planning Board to review and approve all sign applications within the Township;

**WHEREAS**, a public hearing was held on December 7, 2020 after the Planning Board determined it had jurisdiction; and

**WHEREAS**, the Applicants were represented by Lindsay R. Janel, Esq.

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

Counsel for the Applicants provided an overview of the application. The subject property is located at 142 Route 23 North, Pompton Plains, New Jersey. The nature of the application is to reconstruct and to add a reader board to an existing free-standing sign. The proposed reader board is 24 inches in height which conforms to the Ordinance requirements. The reader board is also 9

feet by 2 feet for 18 square feet which also conforms to the Ordinance requirements. The Applicants stipulated that the letter colors would comply with the Ordinance requirements. The Applicants also stipulated that the reader board would be for Century 21 business. Furthermore, the Applicants represented that that the reader board would at all times be attached to a tenant at the building and would only provide advertising for a tenant located on the premises.

The proposed renovated sign has seven (7) tenant spaces permitting a total of 84 square feet. The Sign Ordinance allows free-standing signs with five (5) or more tenants 12 square feet per sign not to exceed 144 square feet thus the Applicants are in compliance with the sign area requirements.

The Board and the Applicants engaged in a discussion regarding the requirement to obtain two (2) variances. The Applicants require “c” variance relief for the height clearance of the sign from the ground to the bottom of the sign. A minimum of 7 foot clearance is required and the Applicants have less than 7 feet of clearance. In addition, the sign is located less than 10 feet from the Route 23 right-of-way. The Board also notes that the setback is an existing condition that will not be changed by this application.

The meeting was opened up to members of the public and there were no members of the public present who expressed an interest in this application.

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

Patricia Wojtyszyn and Donna Perillo d/b/a Century 21 Crest Real Estate, Inc. are the Applicants for premises known and designed as Block 2704, Lot 4 on the Tax Assessment Map of the Township of Pequannock, and located at 142 Route 23 North, Pompton Plains, New Jersey 07444. The subject property is located in the C-3 Zone. The Board determines that the site is a multi-tenanted site on Route 23.

The Board notes that the Applicants require two (2) “c” variances under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70c. The Board determines that Pequannock Township Code §189.13.060(2)(d) provides that the horizontal edge of the display area shall be a minimum of 7 feet from the ground. In this instance the horizontal edge of the display area does not meet the minimum 7 foot clearance requirement. Furthermore, a free-standing sign shall be setback 10 feet from the public right-of-way. The existing sign and the proposed sign is also less than 10 feet from the right-of-way. Thus, the Applicants require “c” variance relief in regard to these two (2) items.

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 Board has examined the request for variance relief under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70c(2). In Kaufman v. Planning Board for Warren Township, 110 N.J. 551, 563 (1988), the New Jersey Supreme Court held:

“By definition then no c(2) variance should be granted when merely the purposes of the owner will be advanced. The grant of approval must actually benefit the community in that it represents a better zoning alternative for the property. The focus of a c(2) case, then, will be not on the characteristics of the land that, in light of current zoning requirements, create a hardship on the owner warranting a relaxation of standards, but on the characteristics of the land that present an opportunity for improved zoning and planning that will benefit the community.”

The Board, in its review of the application under the c(2) criteria, analyzed the proofs provided by the Applicant relative to the positive criteria under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-2 and its subparts.

The Board reviewed the purposes of the Municipal Land Use Law that would be advanced by the approval of this application pursuant to N.J.S.A. 40:55D-2. The Board finds that with the approval of this application 2(a) will be advanced which is to promote the public health, safety and general welfare. The Board also finds that 2(g) would be advanced by the approval of this

application which is to provide sufficient space in appropriate locations for a variety of commercial uses.

In regard to the request for “c” variance relief for height clearance of the sign from the ground to the bottom of the sign, the Board finds that the area beneath the sign is open and thus will not present any sight line issues for motorists traveling along Route 23. Further, the Board notes that the existing and proposed renovated sign is located less than 10 feet from the Route 23 right-of-way. The Board notes this is a long-standing existing condition that will not be changed by the application. This deficiency has not resulted in any substantial detriment to the motorists traveling along Route 23. The Board also finds that the Applicants are not proposing to relocate the sign or to construct a new sign, but rather to renovate the existing sign. The Board also finds that the setback is sufficient so as not to impede sight lines of motorists traveling along Route 23.

The Board finds that the Applicant has satisfied the positive criteria with respect to the granting of “c” variance relief.

Turning next to the negative criteria, the Board finds that for the reasons set forth herein, the granting of this application will not be substantially detrimental to the public good. Furthermore, the granting of this application will not substantially impair the intent and purpose of the zone plan and zoning ordinance. The Board further finds that the purposes of the MLUL would be advanced by a deviation from the zoning ordinance requirements, and the benefits of the deviation substantially outweigh any detriment.

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Board of the Township of Pequannock with regard to the application of Patricia Wojtyszyn and Donna Perillo d/b/a Century 21 Crest Real Estate, Inc. for property known and designated as Block 2704, Lot 4 on the Tax Assessment Map of the Township of Pequannock and located at 142 Route 23 North, Pompton

Plains, New Jersey 07444 and located in the C-3 Zone requesting sign approval is determined as follows:

- A. “c” variance relief is granted from Pequannock Township Code §189.13.060(2)(d) to permit the horizontal edge of the display area to be less than the required 7 feet from the ground and to permit the free-standing sign to be located within the 10 foot setback from the public right-of-way.

**IT IS FURTHER RESOLVED**, as follows:

1. The ground sign shall be installed in strict conformance with the testimony, plans and drawings which have been submitted to the Board with this application.
2. The Applicants represent that all of its representations and stipulations made to the Township of Pequannock Planning Board are true and accurate and acknowledges that the Planning Board specifically relied upon the Applicants’ stipulations in the Board’s granting of approval. If any representation or stipulation is false, this approval is subject to revocation.
3. The installation and maintenance of the ground sign shall comply with all relevant sections of the Pequannock Township Code on signs.
4. The Applicants shall comply with all terms and conditions set forth in the review report dated December 2, 2020 of Jill A. Hartmann, P.P., AICP, Planner to the Pequannock Township Planning Board.
5. The Applicants shall submit to the Board Planner the actual height of clearance from grade to the bottom of the sign.
6. Payment of all fees, costs and escrows due and 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 agency having jurisdiction hereunder.

The undersigned secretary certifies the within Resolution was adopted by the Pequannock Township Planning Board on December 7, 2020 and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on January 11, 2021.

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Gerard Fitamant, Board Secretary

In favor:

Against:

Abstained:

Board Members Eligible to Vote: