

RESOLUTION OF FINDINGS AND CONCLUSIONS

ZONING BOARD OF ADJUSTMENT
OF THE CITY OF ATLANTIC CITY

RESOLUTION #9 OF 2018
APPLICATION OF HARD CHEESE AC, LLC
44 NORTH ALBANY AVENUE
3719 WINCHESTER AVENUE
BLOCK 240, LOTS 1 & 2
CITY OF ATLANTIC CITY
DATE OF HEARING: JULY 26, 2018

2018 SEP 12 AM 10:57
CITY OF ATLANTIC CITY
CLERK

DETERMINATION TO APPROVE USE VARIANCE AND BULK VARIANCE
RELIEF FOR PREVIOUSLY APPROVED AUTOMATED CAR WASH FACILITY

WHEREAS, it has been determined factually by the Zoning Board of Adjustment of the City of Atlantic City that Hard Cheese AC, LLC (hereinafter Applicant) has applied to the Zoning Board of Adjustment of the City of Atlantic City to obtain use variance and bulk variance relief so as to construct an automated car wash facility on vacant property being located at 44 North Albany Avenue, and 3710 Winchester Avenue, Block 240, Lots 1 & 2 which property is located partially in the NC-2 (Neighborhood Commercial) and R-3 (Single-Family Attached) Zoning districts which approval was memorialized in Resolution #12 of 2017; and

WHEREAS, Applicant has returned to the Board to obtain preliminary and final site plan approval together with any additional variances and/or waivers as may be deemed necessary;

WHEREAS, Applicant was represented by Nicholas F. Talvacchia, Esq.; and

WHEREAS, Applicant submitted an application together with site plan prepared by Arthur W. Ponzio Co. & Associates consisting of sheets C-1 through C-7 each dated 7/1/18, and a one page architectural floor plan including four color photographs prepared by Daniel Scot Mascione, Architect dated 7/12/2018; and

WHEREAS, at the time of hearing Applicant presented additional documentary evidence consisting of Exhibit A-1, being an aerial photograph showing the site, Exhibit A-2 , being a mounted plan showing use variance, and Exhibit A-3, being mounted sheet C-3; and

WHEREAS, at time of hearing Applicant presented testimony on behalf of the application from Montgomery Dahm, Principal of Applicant and Jon Barnhart, Licensed Planner and Engineer on behalf of the application; and

WHEREAS, the Board heard testimony and received a Memorandum from the Division of Planning Consultant, William Crane, said Memorandum being dated July 19, 2018; and

WHEREAS, no one from the public spoke with regard to the application; and

WHEREAS, the Board, after considering the evidence presented made the following findings and conclusions which are reflected in the record:

1. Application has been made by Hard Cheese AC, LLC through its attorney, Nicholas Talvacchia, Esq., to obtain any and all further approvals necessitated by the previously approved use and bulk variance relief, that decision being memorialized in Resolution #12 of 2017, including preliminary and final site plan approval for the subject property which is located at 44 N. Albany Avenue and 3710 Winchester Avenue, and which is currently vacant land.
2. Notice requirements have been met.
3. The subject property is located in both the NC-2 and R-3 Zoning Districts for which use variance relief has been previously granted.
4. The current application contemplates minor changes regarding the location of the structure on site, entrance signage and preliminary and final site plan approval.
5. Applicant's professional testified that the Atlantic City Police Department has

requested modification of the site area with regard to entry and exiting on to Winchester Avenue and so as to move the driveway further from Albany Avenue which request the Board finds reasonable and necessitated.

6. Applicant reviewed the site plan aspects of the project. During the course of the presentation it was presented that an entry sign was proposed for the driveway at a more functional location. Said sign would be 1' 8" wide x 4' 1" tall and where a 5' setback is required, the proposal is to be 1.5' for which justification was presented inasmuch as the right-of-way of Albany Avenue is relevant.
7. Applicant's expert reviewed the Planning Memorandum on behalf of the City and reviewed the various paragraphs during the course of hearing. The following paragraphs of the Planning Board and the Applicant's response are herein indicated:
 1. Two foot setback is provided wherein a 10' setback is required which due to the properties location and practical difficulties, the Board determined as reasonable and necessary.
 2. Parking facility was determined to be 16 spaces was found to be adequate for the site.
 3. Bulk variance relief for the ground sign entry at Winchester Avenue should be 1.5' instead of 5' which the Board found was reasonable and necessary.
 4. Detailed drawings of the proposed monument sign at Albany Avenue frontage will be submitted for review and approval and will comply with Ordinance standards.
 5. Applicant has agreed to build a mountable curb to facilitate on-site traffic flow.
 6. Drawings of the pay station equipment and raised island shall be shown on submitted plans and include detail drawings.
 7. The narrow strip of license adjoining Albany Avenue right-of-way shall be increased in width to allow for the planting of an evergreen hedge-row or evergreen materials in order to soften the highly visible appearance of the facility.
 8. Sidewalk area will be reduced from that of 10' to that of 8' in width and greenery will be added.
 9. Detailed drawings of trash enclosure shall be submitted for review and approval.
 10. Sheet C-3 of the submitted plans will be revised to show the location of the fourteen vehicles that will be accommodated by the queue.

11. Sheet C-5 of the submitted plans shall include location, height and arrangement intensity of illumination as measured in foot candles of proposed on-site lighting. Section 163-70A2(c) block B of the Ordinance requires that lighting shall be arranged to prevent direct glare beams onto any public or private property. Section 163-73F3(b) requires that the intensity of lights shall not exceed one foot candle as measured from any lot line.
 12. Street trees will be placed in planting areas indicated on the submitted plans and will not be on the sidewalk area.
 13. Sheet C-5, Landscaping and Lighting Plan will be revised to present greater screening and more aesthetic appeal of landscape materials along Albany Avenue. Evergreen and ornamental materials will be utilized.
 14. An evergreen hedgerow will be used on Winchester Avenue planting strip for continuity and durability in lieu of the proposed design.
 15. The landscaped area at the corner of Norsex and Albany Avenue shall be cut back to allow for a wider sidewalk.
 16. Sixteen underground irrigation shall be provided for all landscape areas. A landscape maintenance plan shall be provided including posting of a Maintenance Bond for a period of two years and at 15% of the cost of all Landscaping materials.
 17. Details of the proposed fencing both the decorative aluminum fence and six foot high vinyl fence at the rear shall be provided for review and approval.
 18. Any approval granted shall be conditioned upon review and approval by City Engineer or any consulting firm acting in that capacity.
 19. Subsequent to final approval and prior to the issuance of any construction permits, the Applicant shall submit six (6) sets of revised plans for Final Plan Certification.
8. The Board determined that bulk variance relief is appropriate for the proposed signage and relocation of the driveway. Preliminary and Final Site Plan Approval was found to be warranted and determined to grant same.

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of the City of Atlantic City on this 26th day of July, 2018 that it does hereby grant use and bulk variance relief and preliminary and final site plan approval for the proposed automated car washing facility as detailed herein and as shown on the submitted plans. The approval is for property situate at 44 North Albany Avenue and 3710 Winchester Avenue, and on property

identified as Block 240, Lots 1 & 2 as shown on the Tax Map of the City of Atlantic City.

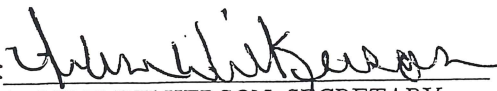
Approval is conditioned upon Applicant complying with all conditions as detailed in the Memorandum from the Division of Planning dated July 19, 2018 attached hereto and made a part hereof.

MOTION BY: JORDAN

SECONDED BY: VRIAM

ROLL CALL VOTE: Five (5) in Favor, One () Opposed

Those in Favor: BANFIELD, ALOI, VRIAM, JORDON, LONGCRIER
Those Opposed:

BY: 
ARLENE WILKERSON, SECRETARY
ZONING BOARD OF ADJUSTMENT
OF THE CITY OF ATLANTIC CITY

BY: 
DEREK LONGCRIER, CHAIRMAN
ZONING BOARD OF ADJUSTMENT
OF THE CITY OF ATLANTIC CITY

Dated: 8/23/18

William D. Crane Associates, Inc.
Professional Planning

77 Marshall Drive • Egg Harbor Township, New Jersey 08234 • (609) 653-0652 • Fax (609) 926-7553

To: Arlene Wilkerson, Board Secretary, Atlantic City Zoning Board of Adjustment

From: William D. Crane, P.P., AICP

Date: July 19, 2018

Re: Application of Hard Cheese AC, LLC – Automated Car Wash

Location: 44 North Albany Avenue and 3710 Winchester Avenue
Block 240, Lots 1 and 2

Status: Preliminary and Final Site Plan and (c) Variance Relief

Zoning District: NC-2, Neighborhood Commercial/R-3, Single Family Attached

Background:

The applicant, Hard Cheese AC, LLC, proposes to construct and operate an automated car wash together with fourteen (14) vacuum stations, lighting, signage and landscaping at 44 North Albany Avenue and 3710 Winchester Avenue, Block 240, Lots 1 and 2. The Zoning Board of Adjustment by Resolution No. 12 of 2017 granted use variance relief to permit the car wash in a zone where it is not permitted by right or as a Conditional Use. The City of Atlantic City also approved a resolution (Resolution No. 321) to grant a license to the applicant to use a portion of the Albany Avenue right-of-way. The instant application requests Preliminary and Final Site Plan Review and Approval together with (c) variance relief from front yard setback requirements and required number of off-street parking spaces.

The following plans and documents have been reviewed:

- See Attachment A

Arlene Wilkerson
Application of Hard Cheese AC, LLC
July 19, 2018

Comments:

1. The following tables indicate the proposed application compliance with the space, bulk and yard requirements of the NC-2 and R-3 Zoning Districts:

Table 1 – Space, Bulk and Yard Regulations/ NC-2 Zoning District

Standard	Requirement	Project	Status
Max. Height	90 ft.	27 ft.	C
Lot Area	N/A	15,198 s.f.	C
Min. Lot Width	N/A	144.75 ft.	C
Lot Coverage			
Principal	N/A	28%	C
Accessory	N/A	N/A	
Aggregate	75%	28%	C
Front Setback			
Albany Ave.	N/A	N/A	
Winchester Ave.	N/A	0 ft.	
Norsex Ave.	10 ft.	2 ft.	NC
Side Setback	N/A	N/A	
Rear Setback	N/A	N/A	
Max. Floor Area	6.0	<6.0	C

C – Compliance

NC – Non-Compliance – Variance Required

N/A – Non-Applicable

Table 2 – Space, Bulk and Yard Regulations/ R-3 Zoning District

Standard	Requirement	Project	Status
Max. Height	35 ft.	27 ft.	C
Lot Area	3000 s.f.	15,198 s.f.	C
Min. Lot Width	40 ft.	144.75 ft.	C
Lot Coverage			
Principal	40%	28%	C
Accessory	N/A	N/A	
Aggregate	40%	28%	C
Front Setback			
Albany Ave.	N/A	N/A	
Winchester Ave.	10 ft.	69 ft.	C
Norsex Ave.	10 ft.	2 ft.	NC
Side Setback	12/5 ft.	25 ft.	C
Rear Setback	N/A	N/A	
Max. Floor Area	6.0	<6.0	C

C – Compliance

NC – Non-Compliance – Variance Required

N/A – Non-Applicable

As evidenced by Table 1., the proposed project requires (c) variance from minimum setback requirements along the commercial lot line that abuts the residential zone for a distance of 100 feet, thus, a 10 ft. setback is required where 2 ft. is provided. Similarly, a 10 ft. front setback is required along that portion of the project that is situated in the residential zone, as evidenced by Table 2. Pursuant to the New Jersey Municipal Land Use Law at N.J.S.A. 40:55D-70 (c)(1), the applicant must demonstrate that by reason of

exceptional narrowness, shallowness or shape of the property, or by reason of the exceptional topographic conditions or physical features uniquely affecting the property, or by reason of an exceptional and extraordinary situation uniquely affecting the property the strict application of the front yard setback regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of the property. In the alternative, pursuant to N.J.S.A. 40:55D-70 (c)(2), the applicant must demonstrate that one or more purposes of the M.L.U.L. would be advanced by a deviation from the zoning ordinance requirement and the variances can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

In addition, the applicant should identify the proposed treatment of the two (2) ft. setback between the principal building and the property line parallel with the Norsex Avenue right-of-way.

2. In accordance with the Atlantic City Land Use Development Ordinance (hereafter "Ordinance") Section 163-70 and Schedule IV, off-street parking shall be provided at a ratio of one (1) space for each one-fifth (1/5) of the capacity of the wash line. If the capacity of the wash line is fourteen (14) vehicles, seventy (70) spaces would be required. However, given the nature of the car wash operation, it appears that 70 parking spaces would be excessive. The sixteen (16) vacuum stations actually double as parking spaces and should be sufficient to serve the on-site parking needs of the car wash.
3. Section 163-71l.(6)(b) of the Ordinance requires that ground signs should have a minimum setback of five (5) feet from all lot lines. The entrance sign at Winchester Avenue is only 1.5 ft. from the lot line, and, as such, (c) variance relief is required. The

applicant must either comply with the Ordinance standard or provide justification for the variance in accordance with the provision of the M.L.U.L., as set forth in comment no. 1.

4. Detail drawings of the proposed monument sign at the Albany Avenue frontage should be submitted for review and approval. The sign must comply with ordinance standards or additional (c) variance relief shall be required.
5. In order to facilitate on-site traffic flow and reduce conflict points, the painted striping in the access area should be replaced with a raised concrete control island.
6. Detail drawings of the pay station equipment and raised island should be shown on submitted plans and include detail drawings.
7. The narrow strip of license area adjoining the Albany Avenue right-of-way should be increased in width to allow for the planting of an evergreen hedgerow or upright evergreen materials in order to soften the highly visible appearance of the facility.
8. Submitted plans show a ten (10) ft. wide sidewalk along Albany Avenue while the project narrative states that a six (6) ft. sidewalk shall be provided. The applicant should correct this discrepancy in favor of the site plan.
9. Detail drawings of the trash enclosure should be submitted for review and approval. Exterior finishes should match the principal building.
10. Sheet C-3 of submitted plans should be revised to show the location of the fourteen (14) vehicles that will be accommodated by the queue.
11. Sheet C-5 of submitted plans should include location, height, arrangement and intensity of illumination, as measured in foot candles, of proposed on-site lighting. Section 163-70A2(c)[b] of the Ordinance requires that lighting shall be so arranged to prevent direct

Arlene Wilkerson
Application of Hard Cheese AC, LLC
July 19, 2018

glare of beams onto any public or private property or street. Section 163-73F(3)(b) requires that the intensity of light shall not exceed one (1) footcandle as measured at any lot line.

12. Street trees along Albany Avenue should be planted twenty (20) feet on center. Planting details including tree pit design as well as type and size of trees should be provided.
13. Sheet C-5, Landscape & Lighting Plan should be revised to present a more aesthetic and greater screening effect of landscape materials along Albany Avenue. Plans should present a height progression of plants with the tallest plant materials at the rear of the landscape areas. Evergreen and ornamental materials should be used to provide year round aesthetic visual appearance.
14. An evergreen hedgerow should be used along the Winchester Avenue planting strip for continuity and durability instead of the proposed design.
15. The landscape area at the corner of Norsex and Albany avenues should be cut back to allow for a wider sidewalk area at the curb radius.
16. Underground irrigation should be provided for all landscape areas to increase the survivability of plant materials. A landscape maintenance plan should be provided including posting a maintenance bond for a period of two (2) years in the amount of 15% of the cost of all landscape materials.
17. Details of the proposed fencing including both the decorative aluminum fence and the six (6) ft. vinyl fence at the rear of the property should be provided for review and approval.
18. Any approval granted the project should be conditioned upon review and approval by the City Engineer or any consulting firm acting in that capacity.

Arlene Wilkerson
Application of Hard Cheese AC, LLC
July 19, 2018

19. Subsequent to final approval and prior to the issuance of any construction permits, the applicant should submit six (6) sets of revised plans for Final Plan Certification.

Recommendation:

We recommend that any approval granted the application be conditioned upon compliance with the comments contained herein, subject to modification by the Zoning Board of Adjustment.

Cc: Robert C. Preston, LLA, P.P., Acting Director, Dept. of Planning and Development
John Scott Abbott, Esq., Solicitor, Zoning Board of Adjustment