

BRICK, TOWNSHIP
OF
(PLANNING AND ZONING DEPT.)



LDS BR-PZ 10504182

Use Variance and Bulk Variances
Meccia
1754 Forge Pond Road
Block: 852, Lot: 10
Zone: B-3
Application No.: BA-2307

**RESOLUTION OF APPROVAL
ZONING BOARD OF ADJUSTMENT, TOWNSHIP OF BRICK
APPLICATION NO.: BA-2307**

RESOLUTION NO.:

INTRODUCTION

January 21, 2004

WHEREAS, an application has been made by Clement Meccia, whose mailing address is 1754 Forge Pond Road, Brick, New Jersey, for the approval to construct a 575 square foot detached garage where the accessory building side yard setback requirement is 20 feet whereas 5 feet is proposed and the rear yard setback requirement is 50 foot whereas 17 feet is proposed on property located at 1754 Forge Pond Road, Brick, Block No. 852, Lot No.10, Zone B-3 as set forth on the Tax Maps of the Township of Brick; and

WHEREAS, such proof of service as may be required by New Jersey Statutory and Municipal Ordinance requirements upon appropriate property owners and Governmental bodies has been furnished; and

WHEREAS, a public hearing was held on the said application on December 10, 2003, in the Municipal Building of the Township of Brick.

WHEREAS, the application documents and exhibits included the following:

- A. A land development application dated July 30, 2003;
- B. A survey prepared by Michael J. Williams Land Surveying, LLC dated May 4, 2000;
- C. Marked up survey prepared by the applicant, Clement Meccia.

File
APP.
B. ATT.
B. ENG.
Blding.
ZONING

VARIANCES AND WAIVERS REQUESTED

WHEREAS, the Applicant has requested the following waivers and /or variances:

- A. Section 190-102 – Permitted Use- Single Family dwellings are not a permitted use in the B-3 zoning district.
- B. Section 190-11 - Area, yard and building requirements:
 - i. A minimum accessory building side yard setback of 20 feet is required whereas 5 feet is proposed.
 - ii. A minimum accessory building rear yard setback of 50 feet is required whereas 17 feet is proposed.
 - iii. A front yard setback of 75 feet is required and 33 feet is existing.
 - iv. A side yard setback of 30 feet is required and 20 feet is existing.
- C. The applicant requested the following waivers:
 - i. Site triangle easement.
 - ii. Dimensions of all existing and proposed parking areas.
 - iii. Proposed lighting, screening and landscaping.
 - iv. Existing and proposed spot grades.

TESTIMONY

WHEREAS, the Board considered the testimony of the applicant indicating that:

- 1. The garage is being built to house vehicles and lawn equipment.
- 2. The applicant addressed the report of the Board Engineer, Michael Bohrer, dated October 1, 2003:
 - a. The applicant requested waivers.

- b. The application requires a use variance, but if this property was located in an R-10 zone it would be compliant.
3. The side entrance to the property faces Lot 9.
4. The proposed garage will be used for garage purposes and shall not be used for the purpose of living in.

FINDINGS

WHEREAS, the Zoning Board of Adjustment, Township of Brick made the following factual findings:

1. All jurisdictional requirements have been met.
2. The applicant has a proprietary interest in the property.
3. The applicant has requested approval in accordance with the Ordinances of the Township of Brick.
4. The applicant has meet the positive criteria required for a use variance and bulk variances as the applicant testified that the property is suited for this use as the property is in a commercial transition zone and would meet the requirements for a bulk variance if located in an R-10 zone. The property is more akin to the R-10 zone requirements than the B-3 zone requirements and would be compliant under the R-10 requirements. The property is located in a B-3 zone surrounded by a commercial transition zone.
5. The Brick Township Board of Adjustment finds that the applicant has meet the negative criteria required for bulk variances as the applicant testified that the garage is in keeping with the character of the neighborhood which would in no way be detrimental to the public. The Brick Township Board of Adjustment concurs with these representations and so finds.

6. The granting of the variance will not have a substantial detriment to the public good and will not substantially impair the intent and purpose of the Zone Plan and Zoning Ordinances of the Township of Brick as this property is an existing residential use in keeping with the character of the neighborhood.

7. The positive criteria outweigh the negative, if any.

8. There were no objectors present at the hearing.

9. The applicant requests to construct a 575 square foot detached garage where the accessory building side yard setback requirement is 20 feet whereas 5 feet is proposed and the accessory building rear yard setback requirement is 50 foot whereas 17 feet is proposed on property located at 1754 Forge Pond Road, Brick, Block No. 852, Lot 10, Zone B-3.

10. The Board considered the report of Michael Bohrer, Board Engineer, dated October 1, 2003. The Board hereby adopts the findings in that report and incorporates that document in this Resolution by reference.

CONDITIONS

NOW, THEREFORE, BE IT RESOLVED, by the Brick Board of Adjustment that the application is hereby APPROVED subject to the applicant's compliance with the conditions and stipulations as set forth in the preamble of this resolution and subject to the following conditions:

1. The testimony, deliberations and stipulations at the hearing are hereby incorporated by reference and to the extent the same impose additional or more detailed conditions of approval, such conditions of approval are hereby adopted to the same extent as if each were set forth herein at length;

2. Applicant shall be allowed to construct a 575 square foot detached garage where the accessory building side yard setback requirement is 20 feet whereas 5 feet is proposed and the accessory building rear yard setback requirement is 50 foot whereas 17 feet is proposed on property located at 1754 Forge Pond Road, Brick, Block No. 852, Lot 10, in a Zone B-3.
3. The driveway shall be constructed in compliance with the Township Engineer's requirements.
4. The garage shall be used solely for garage purposes and not for the purpose of living in.
5. Applicant shall make application and obtain approval from the Township Building Department prior to the start of any construction/renovations.
6. No building permits shall be issued until such time as the Board of Adjustment professional fees have been confirmed by the Board Secretary as paid in full. In the event a building permit is issued and there are outstanding Board of Adjustment professional fees, a stop work order will be filed against the Applicant/contractors(s) until such professional fees have been paid.
7. The Applicant must submit proof of payment of all currently due taxes to the Brick Township Board of Adjustment.
8. The Applicant must obtain reports with signed certification from the Township of Brick Engineer, Code Enforcement Officer, and Building Department certifying that all condition of the Resolution have been adhered to.
9. Application and approval from local, State and Federal regulatory agencies having jurisdiction over this project.

10. In the event there is an existing violation, the Applicant shall have thirty (30) days from the date the Notice of Decision was published to correct the violation. Failure to correct the existing violation within the time prescribed will result in the issuance of a summons.

ROLL CALL VOTE:

Moved by: D. Raftery

Seconded by: J. Rentschler

Affirmative Vote: D. Raftery, J. Rentschler, M. Mastroserio, & H. Langer

Negative Vote:

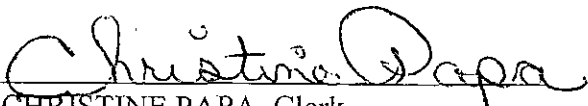
Abstaining:

Absent:

INELIGIBLE: T. Leahy, C. Jones, N. Borelli, W. McGuire, & J. Deckelnick

CERTIFICATION

I, Christine Papa, Clerk, Board of Adjustment of the Township of Brick, County of Ocean, and State of New Jersey, do hereby certify that the foregoing Resolution was duly passed by the said Board of Adjustment of the Township of Brick at a meeting held on this 21st. day of January 2004.


CHRISTINE PAPA, Clerk
Brick Township Board of Adjustment