

LAND USE BOARD

BOROUGH OF NEPTUNE CITY, NEW JERSEY

RESOLUTION GRANTING USE VARIANCE
AND PRELIMINARY AND FINAL SITE PLAN APPROVAL
FOR BLOCK 67, LOTS 16 & 17,
71 AND 75 W. SYLVANIA AVE.

Mr. R. Shafer offered the following Resolution and moved its adoption, seconded by Ms. P. Gerand.

WHEREAS, TFH Publications, Inc. ("Applicant") is the owner of property known as Block 67, Lot 16 & 17 on the Tax Map of the Borough of Neptune City, located at 71 & 75 W. Sylvania Avenue, in the Borough of Neptune City, New Jersey; and

WHEREAS, the premises are located in the Residential Commercial (RC) zone; and

WHEREAS, TFH Publications, Inc. has submitted a development application to the Land Use Board of the Borough of Neptune City seeking approval for use variance and site plan; and

WHEREAS, the applicant was represented by Russell Burnside, Esq.;

WHEREAS, the Board heard the testimony of Glenn S. Axelrod, principal of the applicant; Louis Salamone, AIA; Elizabeth Dolan, P.E.; and William Buzby, P.E., P.P., P.L.S.; and

WHEREAS, the following exhibits were admitted into evidence in this application;

1. Application dated November 19, 2010;
2. Affidavit of Service on November 23, 2010;
3. Affidavit of Publication on November 24, 2010;
4. Site Plan" prepared by William R. Buzby, Jr., P.E., P.L.S., dated November 16, 2010;

5. Architectural Drawing prepared by Louis A. Salamone, AIA and Burton S. Landau, AIA, dated November 12, 2010;

6. Traffic Impact Analysis for TFH Publications prepared by Elizabeth Dolan, P.E. of Dolan & Dean Consulting Engineers, LLC, dated November 2, 2010;

7. Seven color renderings

8. Traffic Impact Analysis for TFH Publications prepared by Elizabeth Dolan, P.E. of Dolan & Dean Consulting Engineers, LLC, dated June 24, 2010;

9. Letter to Glenn S. Axelrod from Dolan & Dean Consulting Engineers, LLC, dated November 2, 2010;

10. Colorized Survey;

11. Colorized proposed building;

12. December 1, 2010 letter of Matt Shafai, P.E., Board Engineer.

WHEREAS, the Land Use Board having considered all the evidence, exhibits and testimony presented, makes the following findings of fact and conclusions of law:

1. The foregoing recitals are incorporated herein as if set forth at length.

2. The Applicant established that proper and timely service of a Notice of the December 9, 2010 hearing was made upon adjacent property owners identified pursuant to N.J.S.A.40:55D-12(c), and that Notice of the December 9, 2010 hearing was published in a timely and proper fashion.

3. The Land Use Board has jurisdiction to hear and decide this application.

4. Block 67, Lot 16 contains 3.94 acres of land with frontage on Windsor, West Sylvania and Myron Avenues. The lot is improved with an existing 68,964 sf building for the manufacture and storage of Nylabone products. Block 67, Lot 17 contains 0.54 acres of land with frontage on West Sylvania and Myron Avenue and is improved with a vacant restaurant. Applicant proposes to consolidate the two lots, demolish the restaurant building and construct a two-story addition to the existing manufacturing building consisting of 51,865 sf for the following uses: office-18,225 sf; packaging 17,762 sf; warehousing 10,693 sf; mezzanine-5,185 sf. Surrounding uses are commercial to the north and residential to the east, west and south. Warehousing is not a permitted use and

the present use is non-conforming, thus Applicant sought a variance pursuant to N.J.S.A. 40:55D-70(d)(2) to expand the non-conforming use. The proposed height of the addition is 29.92 feet which is within the maximum of 30 feet permitted. The Applicant proposes 86% lot coverage where 70% is permitted. Section 111-13B requires 181 parking spaces and Applicant proposes 148 car spaces and 2 motorcycle spaces.

5. Applicants packaging operations are currently conducted at another site in Neptune City which generates truck traffic between the two locations. Applicant proposes to move all packaging operations to the proposed addition and close the current packaging facility, thus reducing truck traffic within the Borough. Employee and customer demand for on-site parking will not exceed 122 spaces because manufacturing employees work in day and evening shifts and office staff works during the day. Based on traffic counts taken in June, 2010 and October, 2010, additional vehicles coming to the site as a result of the proposed addition and consolidation of operations can be accommodated on existing adjacent roadways within an acceptable level of service.

6. Applicant agreed to construct the curb radius and to install a sign so as to prohibit right turns from the site onto Myron Avenue. There will be no truck traffic entering the site from Myron Avenue. The Route 35 access from the restaurant property will be eliminated and will thus improve traffic safety.

7. An equipment area at the front of the building will be screened with a fence and evergreen vegetation. Any equipment to be installed in this area will not generate noise. The Applicant agreed to install an 8 foot fence and evergreens along the rear property line, and the height of the fence will require a variance as the ordinance limit is 6 feet. Applicant agreed that all landscaping will be subject to the approval of the Boards engineer.

8. Applicant will comply with all Stormwater Regulation requirements as set forth in paragraph 4 of the Board Engineers letter of December 1, 2010.

9. Applicant will comply with all NJDEP requirements concerning the removal of monitoring wells and well monitoring shed on the restaurant property resulting from demolition of the restaurant building.

10. The design of the building and proposed facades, incorporating spandrel glass, are an architecturally aesthetic improvement that give the building the appearance of an office rather than a manufacturing facility.

11. Members of the public questioned the Applicant for clarification of noise, traffic and landscaping issues and commented to the Board regarding those issues.

12. The Board finds pursuant to N.J.S.A. 40:55D-70(d) (2) that the variance for expansion of the non-conforming warehouse use can be approved, as the proposed addition incorporates not only warehousing but includes packaging which will allow Applicant to close an off-site packaging facility and reduce truck traffic in the Borough, thus promoting the general health and welfare with minimal impact on surrounding residences from enlargement of the existing facility. The limited expansion of the existing warehousing use is not inconsistent with the intent and purpose of the master plan and zoning ordinance.

13. The Board finds pursuant to N.J.S.A. 40:55D-46 and 50 that preliminary and final site plan approval can be granted subject to the conditions set forth herein.

14. The Board finds pursuant to N.J.S.A. 40:55D-70(c)(2) that the lot coverage, parking, and fence height variances should be granted because the purpose of the Municipal Land Use Law as to health, safety and general welfare would be advanced by granting the variances, and that the benefits of deviating from the requirements of the lot coverage, parking and fence height ordinances would substantially outweigh any detriment, in that the proposed addition is situated 68 feet from Myron Avenue; truck traffic in the Borough will be reduced by the consolidation of facilities and adjacent roadways can accommodate additional traffic to the site within an acceptable level of service; and an 8 foot fence height is appropriate for screening the residential area in combination with a landscaping screen.

15. The Board finds that the relief requested can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning ordinance of the Borough of Neptune City.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Neptune City that the application for use variance for expansion of a pre-existing non-conforming warehouse use and preliminary and final site plan with variance for lot coverage, parking spaces and fence height be and is hereby granted, subject to and conditioned upon the Applicants compliance with the following conditions:

1. Applicant shall pay taxes and any outstanding assessments to date, as well as all fees and costs and any and all escrow fees. The Applicant shall furnish such Performance

Guarantees, Engineering Inspection fees and/or Maintenance Guarantees as may be required pursuant to the Municipal Land Use Law and the Ordinances of the Borough of Neptune City for the purpose of assuring the installation and maintenance of on-site and off-site improvements.

2. Where applicable, Applicant shall obtain approval from the Monmouth County Planning Board or communication from that Board indicating no interest in the subject application or passage of the appropriate time period pursuant to law.

3. Applicant shall comply with all federal, state and local laws, rules and regulations and such governmental approvals as are necessary and pertinent to this application. Nothing herein shall excuse compliance by the Applicant with any and all other requirements of this municipality or any other governmental entity.

4. Applicant will comply with the Board Engineers requirements concerning landscaping and screening.

5. Applicant will comply with all conditions set forth in the December 1, 2010 letter of the Board's engineer.

6. All utility services to the site shall be installed underground.

7. The minimum height of proposed evergreens shall be 7 to 8 feet.

8. Applicant shall prepare and record a Deed with the Clerk of the County of Monmouth attaching this Resolution, which Deed shall be submitted for review and approval as to form by the Board Attorney and Board Engineer prior to recording. Copies of the recorded Deed shall be provided to the Borough Administrator and Land Use Board Secretary.

9. It is the responsibility of the Applicant or its successors in title to properly maintain all improvements made in accordance with the site plan. If Applicant fails to properly maintain any of the improvements as shown on the final site plan, the Borough shall notify the applicant in writing to remedy the condition within thirty (30) days. If the condition is not remedied to the satisfaction of the Borough, the Borough shall have the right to have the work performed and to require the applicant to reimburse the Borough for all reasonable costs thereof, including but not limited to, engineering, legal and other related expenses.

10. This approval is subject to the accuracy and completeness of the submissions, statements, exhibits and other testimony filed with, or offered to, the Board in connection with this application, all of which are incorporated herein by reference and specifically relied upon by the Board in granting this approval. This condition shall be a continuing condition subsequent which shall be deemed satisfied unless and until the Board determines, on Notice to the Applicant, that a breach hereof has occurred.

11. No site work shall be commenced or plans signed or released or any work performed with respect to this approval until such time as all conditions of the approval have been satisfied or otherwise waived by the Land Use Board.

12. Any and all notes, drawings or other information contained on any approved plans shall be conditions of this approval.

13. The Board authorizes the Board Engineer, the Borough Construction Official and the Borough Administrator to make such minor administrative revisions as may be deemed necessary in the best interests of the Borough, or in the interest of public safety, due to field conditions.

BE IT FURTHER RESOLVED that a Notice of this decision shall be published in the official newspaper of the Borough and a certified copy of this Resolution shall be forwarded to the Applicant.

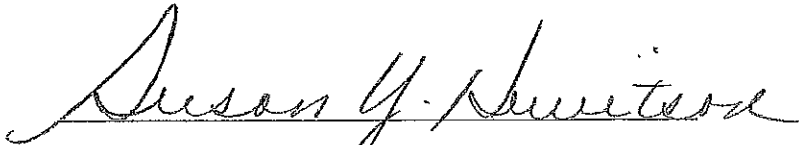
MOVED: R. Shafer

SECONDED: P. Gerand

IN FAVOR: R. Shafer, P. Gerand, I. Allegro, J. Zajack

OPPOSED: None

The foregoing is a true copy of a Resolution adopted by the Land Use Board of the Borough of Neptune City at its meeting on January 11, 2011, as copied from the Minutes of said meeting.

A handwritten signature in cursive script, reading "Susan Y. Hewitson", written over a horizontal line.

SUSAN Y. HEWITSON, SECRETARY
NEPTUNE CITY LAND USE BOARD