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April 10, 2020

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RE: Application for variances of RDM Group, Freeport/Langan Road, Pittston Township Zoning Application #Z20-001, Luzerne County Property Identification Number: 51-E13-00A-03A-000

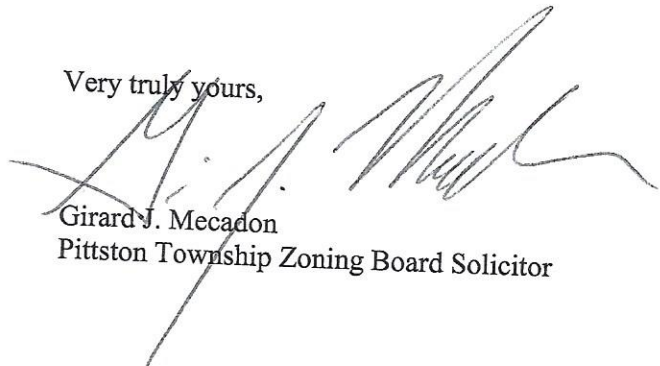
Dear Ms. Benkowski and Gentleman:

Enclosed please find the Opinion, Findings of Fact, Conclusions of Law, and Decision and Order of the Pittston Township Zoning Hearing Board relative to the above referenced application. Those of you who attended the meeting on February 27, 2020 are aware the Board voted unanimously to deny the 7 variances that were requested.

You have a right to appeal the Board's decision. Please note that is you do choose to appeal, you have thirty (30) days from today's date, or by May 10, 2020 to file an appeal with the Luzerne County Court of Common Pleas.

Please be guided accordingly.

Very truly yours,



Girard J. Mecadon
Pittston Township Zoning Board Solicitor

GJM/gm
Cc: Terry Best

In Re: Pittston Township Zoning
Application #Z20-001 of RDM Group

: Before the Zoning Hearing Board
: For the Township of Pittston
:

Appeal from Zoning Officer's Denial
of Zoning Permit Application

: Hearing Date: February 27, 2020
: Decision Date: February 27, 2020
: Opinion and Order: April 10, 2020
: Mailing Date: April 10, 2020

OPINION

On February 27, 2020, at 6:30 p.m., the Zoning Hearing Board of the Township of Pittston pursuant to due notice met at the Pittston Township Municipal Building to hear the application of RDM Group for seven (7) separate variances for property they are under contract with located at Freeport/Langan Road, Pittston Township, Luzerne County regarding the construction of a 164,000 square foot warehouse.

Present were members of the Zoning Hearing Board: John Baiera, Chairman, Al Urbanski, and William Koons, board members. Also present were Terrence Best, Pittston Township Zoning Officer, Girard J. Mecadon, Esquire, Pittston Township Zoning Board Solicitor, Karin E. Volpitta, Court Reporter, Isaac Neuman, on behalf of the Applicant, Donald G. Karpowich, Esquire, on behalf of the Applicant, Alan P. Rosen, Esquire, on behalf of the Applicant, Rocco Caracciolo, P.E., on behalf of the Applicant, Jeffery M. Fiore, P.E., on behalf of the Applicant, John R. Varaly, on behalf of the Applicant, Michael Amato, on behalf of Pittston Township, and Mark W. Bufalino, Esquire, on behalf of Pittston Township. Public comment participants were: Bill Golembeski, Sherry Hess, Bill Thiel, Bob Snyder, Anthony Grabosky, Sandra Dubiel, Jeff Krevey, Ann Fox, Patty McGarry, Ed Suchecki, Jim Sulima, Elaine Strong, Robert

Miller, and John Ozark. Upon conclusion of the testimony of the Zoning Officer, Applicant, Applicant's Witnesses and all other Witnesses, the Board found the following:

FINDINGS OF FACT

1. The Applicant is under an Agreement of Sale dated July 15, 2019 to purchase the premises of approximately 18.5 acres of vacant land located in an R-1 Single Family Residence District from ZOM Construction at Freeport/Langan Road, Pittston Township, Luzerne County, Deed Book 1815 Page 983, Property Identification Number: 51-E13-00A-03A-000.
2. The Applicant desires to construct a 164,640 square foot Warehouse on the premises.
3. On December 13, 2019 the Applicant applied for a zoning permit requesting a total of seven (7) variances including a use variance for constructing a 164,640 square foot Warehouse in an R-1 Single Family Residence District.
4. On January 7, 2020, Pittston Township Zoning Officer, Terrance Best, denied the application for the variances as Pittston Township Zoning Ordinance Table No. 1 only allows Warehouses as a Principal Permitted use in Industrial Zoning Districts, specifically, I-1 and I-2 Zoning Districts.
5. On January 28, 2020, the Applicant appealed the Zoning Officer's decision to the Pittston Township Zoning Hearing Board.

6. A public hearing was held on February 27, 2020 beginning at 6:30 p.m. and concluding at 10:46 p.m. before the Zoning Hearing Board at the Pittston Township Municipal Building, 421 Broad Street, Pittston Township, Pennsylvania, 18640.
7. All required zoning notices of the hearing were properly given in accordance with the Zoning Ordinance in that the hearing was advertised in the Citizens' Voice newspaper on two (2) separate dates prior to the hearing; individual written notices were sent to all residents/property owners within 200 feet of the subject property, the subject property was properly posted by the zoning officer and notice was also posted on the door of the Pittston Township Municipal Building.
8. Three (3) members of the Zoning Hearing Board were present at the February 27, 2020 hearing: John Baiera, Chairman, Al Urbanski, and William Koons, along with Zoning Board Solicitor Girard J. Mecadon.
9. The hearing was stenographically recorded by Karin E. Volpitta.
10. At the commencement of the hearing the board appointed Solicitor Girard J. Mecadon as hearing officer pursuant to the zoning ordinance.
11. The Applicant, through its counsel, Donald G. Karpowich, Esquire, called Alan P. Rosen, Esquire, Rocco Caracciolo, P.E., Isaac Neuman, Jeffery M. Fiore, P.E., and John R. Varaly in support of the variances.
12. Pittston Township, through Mark W. Bufalino, Esquire, called Michael Amato, Engineer to Pittston Township, on behalf of Pittston Township, who opposed the variances.

13. There was also public comment testimony in opposition to the request for the variances. The names of the fourteen (14) people who spoke in opposition to the variances are listed below:

Bill Golembeski – 3103 Church Drive, Pittston Township
Sherry Hess – 609 Langan Road, Pittston Township
Bill Thiel – 516 Langan Road, Pittston Township
Bob Snyder – 23 Ledge Court, Pittston Township
Anthony Grabosky – 35 Ziegler Road, Pittston Township
Sandra Dubiel – 45 Ziegler Road, Pittston Township
Jeff Krevey – 27 Ridge Street, Pittston Township
Ann Fox – 54 New Rail Lane(504 Langan), Pittston Township
Patty McGarry – 50 New Rail Lane(503 Langan), Pittston Township
Ed Suchecki – 7 Stone Court, Pocono Ridge Estates, Pittston Township
Jim Sulima – 39 Ziegler Road, Pittston Township
Elaine Strong – 3102 Church Drive, Pittston Township
Robert Miller – 48 Ziegler Road, Pittston Township
John Ozark – 1012 Langan Road, Pittston Township

14. The following Exhibits were submitted to the Board by Zoning Officer Best and accepted as part of the record:

Exhibit 1-December 17, 2019 Zoning Permit Application
Exhibit 2-January 7, 2020 zoning officer permit denial letter
Exhibit 3-January 28, 2020 Hearing Board Appeal application
Exhibit 4-Citizens' Voice proof of publication-advertised two times
Exhibit 5-Public Notice-Posted on premises and municipal building
Exhibit 6-Site map
Exhibit 7-List of property owners notified

15. The following Exhibits were submitted by the Applicant to the Board and accepted as part of the record:

Exhibit 1-Agreement of Sale
Exhibit 2-Deed
Exhibit 3-Zoning Permit Application
Exhibit 4-Zoning Officer's Denial Letter
Exhibit 5-Zoning Hearing Board Appeal with cover letter
Exhibit 6-Resume of Rocco Caracciolo, P.E.
Exhibit 7-Report of Rocco Caracciolo, P.E.

- Exhibit 8-Official Zoning Map
- Exhibit 9-Aerial Photography of the Site
- Exhibit 10-Aerial Photography of the site (Closer Range)
- Exhibit 11-Preliminary Conceptual Plan
- Exhibit 12-Resume of Jeffrey M. Fiore, P.E.
- Exhibit 13-Report of Jeffrey M. Fiore, P.E.
- Exhibit 14-Location Map of Industrial Park
- Exhibit 15-Resume of John R. Varaly, AICP
- Exhibit 16-Report of John R. Varaly, AICP
- Exhibit 17-Resume of Alan P. Rosen, Esquire

16. The property in question is an 18.5 acre triangular shaped lot situated in an R-1 Single Family Residence Zoning District.
17. The Applicant proposes to construct a 164,640 square foot warehouse and is requesting seven (7) separate variances which are listed below.

(1) Table No.1 Article 5 of the Pittston Township Zoning Ordinance prohibits Warehouses in R-1 Single Family Residence Zoning Districts and only allows Warehouses as a Principal Permitted Use in Industrial Zoning Districts, specifically, I-1 and I-2 Zoning Districts

Applicant is requesting a use variance to allow a 164,640 square foot Warehouse to be constructed in an R-1 Single Family Residence District;

(2) Section 1115 – States parking requirement is 1 space/1,000 square feet of building plus 1 space/2 employees on the maximum shift.

Applicant is requesting a variance to allow 94 parking spaces;

(3) Section 1115 – Requires parking area must be 25% of the building area.

Applicant is requesting a variance to 21.6% in car parking or in the alternative, an interpretation that the 30 trailer stalls meet this requirement which would provide 32.5% of the building area and meet the requirements of the zoning ordinance;

(4) Section 317.2.C.1- Requires a planted island after every 10 parking stalls, and no more than 10 parking spaces in a row.

Applicant is requesting a variance from a planted island after every 10 parking stalls, and no more than 10 parking spaces in a row;

(5) Section 317.2.C.2- Requires a parking island at the end of all rows.

Applicant is requesting a variance requiring a parking island at the end of all rows;

(6)Section 317.C.4 – Requires Large lots of 100 spaces to be divided by a long landscape strip.

Applicant is requesting a variance to allow for a much more efficient parking lot and greater landscaping surrounding the perimeter of the site;

(7) Section 307.7.A – Requires a 100' yard where an Industrial Use abuts a Residential Use.

Applicant is requesting a variance to allow grading and minor site work/parking.

CONCLUSIONS OF LAW

1. Pursuant to the Pennsylvania Municipalities Planning Code and Section 1502 of the Pittston Township Zoning Ordinance, the Zoning Hearing Board has exclusive jurisdiction to hear and render final adjudications on applications for variances.
2. The Zoning Hearing Board has considered the applicable provisions of the Zoning Ordinance, the Pennsylvania Municipalities Planning Code, and relevant case law in arriving at its decision in the instant matter.
3. If any of the variances are denied, the provisions of the Zoning Ordinance would not cause Applicant to suffer unnecessary hardship in that it would not

inhibit the use and enjoyment of their property as an R-1 Single Family Residence.

4. There are no unique physical circumstances or conditions peculiar to the particular property, thus, there is no unnecessary hardship due to such conditions, nor are there any circumstances or conditions generally created by the provisions of the Zoning Ordinance.
5. Because of there being no physical circumstances and conditions, authorization of a use variance is unnecessary to enable reasonable use of the subject property with respect to the construction of a warehouse in an R-1 Single Family Residence District. Rather, there is a possibility that the property can be developed as a Single Family Residence.
6. Unnecessary hardship has been created by the Applicant in that the property could be used for its permitted use as a Single Family Residence.
7. The use variance will alter the essential character of the neighborhood or R-1 Single Family Residence Zoning District in which the property is located, and substantially or permanently impair the appropriate use or development of adjacent properties and be detrimental to public welfare.
8. The use variance requested does not represent the minimum variance that will afford relief to the Applicant.
9. There has been no showing by the Applicant that the 18.5 acre Freeport/Langan property imposes such an undue hardship as toward the support of the issuance of the requested variances to construct a 164,640 square foot warehouse in an R-1 Single Family Residence Zoning District.

The evidence and testimony, as presented at the hearing, do not satisfy the requirements for the grant of variances pursuant to the provisions of the Township of Pittston Zoning Ordinance, as amended.

DECISION AND ORDER

AND NOW, this 27th day of February, 2020, upon consideration of the Applicant's request for variances, the applicable provisions of the Pittston Township Zoning Ordinance, the Pennsylvania Municipalities Planning Code and relevant case law; and after a public hearing; the Pittston Township Zoning Hearing Board unanimously voted regarding the seven (7) variances of the Applicant. Therefore, the application of RDM Group for variances for relief from:

- (1) Table No.1 Article 5 – Requesting a Warehouse in an R-1 Zone;
- (2) Section 1115 - Requesting a variance to allow 94 parking spaces;
- (3) Section 1115 – Requesting a variance from requiring the parking area to be 25% of the building area to 21.6% or 32.5%;
- (4) Section 317.2.C.1- Requesting a variance from a planted island after every 10 parking stalls, and no more than 10 parking spaces in a row;
- (5) Section 317.2.C.2- Requesting a variance requiring a parking island at the end of all rows;
- (6) Section 317.C.4 – Requesting a variance to allow for a greater landscaping surrounding the perimeter of the site; and
- (7) Section 307.7.A – Requesting a variance to allow grading and minor site work/parking.

are all hereby DENIED and it is hereby ORDERED AND DECREED that a copy of the Board's decision to be sent to the Applicant.

BY THE ZONING HEARING BOARD OF
THE TOWNSHIP OF PITTSTON:



JOHN BAIERA, Chairman