

**BOROUGH OF PALMYRA LAND USE BOARD**

**VIRTUAL MEETING MINUTES**

**August 18<sup>th</sup>, 2021 -7:00 PM**

**CALL TO ORDER**

The Borough of Palmyra Land Use Board Reorganization meeting was called to Order by Land Use Board Chairman, Lewis Yetter at 7:03 pm.

The pledge of Allegiance was recited.

**OPEN PUBLIC MEETINGS ACT**

Chairman Yetter read the following into the record:

In accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq., and in consideration of Executive Order No. 103, issued by Governor Murphy on March 9, 2020, declaring a State of Emergency and a Public Health Emergency in the State of New Jersey, the Palmyra Land Use Board does hereby notify the public that to protect the health, safety and welfare of our citizens, and to reduce the potential spread of COVID-19 and its variants, while ensuring the continued functioning of the Board, this meeting of the Palmyra Land Use Board will be held Virtually. Members of the public are invited to “attend” the Virtual Land Use Board Meeting but all members of the public participating in the meeting may be muted and their video image disabled. Notice of this meeting was published in the Burlington County Times on January 26<sup>th</sup>, 2021. Notice was posted on the Official Bulletin Board and electronic signs on July 27<sup>th</sup>, 2021 and the Borough of Palmyra Website on August 16<sup>th</sup>,2021 and notice was given to all Land Use Board Members.

**ROLL CALL**

Secretary Jackson called the roll of the board:

PRESENT: Chairman Yetter, Vice-Chairman Beck, Mayor Tait, Councilwoman Cloud, Mr. Gural, Ms. O’Connor, Mr. Robinson, Mr. Rossignol

ABSENT: Ms. Belton, Mrs. Melvin, Mrs. Hui

## MINUTES

Chairman Yetter noted minutes from May 19<sup>th</sup>, 2021, and June 16<sup>th</sup>, 2021 are not ready for submission yet, they will be forth coming.

Chairman Yetter asked if there were any questions or comments regarding the July 21, 2021, Land Use Board Meeting minutes. Hearing none, he requested a motion to approve the minutes as written.

Vice-Chairman Beck made the motion to approve the minutes as written and Mayor Tait second the motion. Chairman Yetter asked for a call of the roll.

### **At the call of the roll the vote was as follows:**

AYES: Chairman Yetter, Vice-Chairman Beck, Mayor Tait, Mr. Gural, Ms. O'Connor, Mr. Robinson

NAY: None

ABSTAIN: Councilwoman Cloud, Mr. Rossignol

## CORRESPONDENCE

Chairman Yetter indicated there was no correspondence

## BOROUGH COUNCIL UPDATES

Councilwoman Cloud indicated she had nothing currently to report. Mayor Tait noted the Community Garden was open for anyone wishing to pick and or help weed the garden. Mayor Tait noted the mobile MV Bus was also coming to the Borough Community Center on Saturday August 21<sup>st</sup>, 2021 and the Town wide yard sale would be held September 18<sup>th</sup>, 2021. Mayor Tait also noted the hiring of two new police officers and three new S1 officers.

## OLD BUSINESS

**Resolution 2021-15** Memorialization in the Matter of 614 Kennedy, LLC 614 Kennedy Street Blk 134 Lots 1,2.02,2.03,3, and 13 Application 2020-LUB05

### **BOROUGH OF PALMYRA LAND USE BOARD**

#### **RESOLUTION 2021-15**

#### **RESOLUTION OF MEMORIALIZATION IN THE MATTER OF 614 KENNEDY STREET**

#### **APPLICATION NO. 2020-LUB-05**

**WHEREAS**, 614 Kennedy LLC (“Applicant”) is the owner of property located at 614 Kennedy Street, Palmyra, New Jersey, more particularly described as Block 134 Lots 1, 2.01, 2.02, 2.03, 3 & 13 on the Tax Map of the Borough of Palmyra, (“subject property”); and

**WHEREAS**, the subject property is located in I (Industrial) Zone; and

**WHEREAS**, Applicant filed an application for minor site plan approval and a use “d” variance to allow the operation of an auto repair and parts facility within an existing building and the construction of a gravel parking area for nineteen parking spaces at the corner of Front Street and Orchard (“Application”); and

**WHEREAS**, the Application also requires relief from Section 158-37E, off street parking, where 40 spaces would be required (4 spaces per bay and 10 bays) and 19 on site spaces are proposed; and parking stall length of 16 feet whereas 18 feet is required; and

**WHEREAS**, the Application also requires relief from Section 158-37(8)(c), where curb islands are required in a parking area, but none are proposed, and parking lots are required to have a planted buffer not less than six feet in width on all perimeter areas abutting lot lines or street rights of way, whereas the proposed buffer is only provided along one side of the parking area; and

**WHEREAS**, the Application also requires relief from Section 158-37(D) which requires an average of 0.6 maintained foot-candle coverage throughout parking lots, whereas no site lighting is proposed; and

**WHEREAS**, the subject property is owned by the Applicant; and

**WHEREAS**, there is currently a building on the subject property, and the purpose of the Application is to allow for automotive repair to support the activities of F C Kerbeck & Sons Automobile Dealership; and

**WHEREAS**, the I Zone does not permit automobile repair, so that a variance pursuant to N.J.S.A.40:55D-70(d)(1) will be required; and

**WHEREAS**, the proposed minor site plan and the use and bulk variances and waiver relief above constitutes the “Application”; and

**WHEREAS**, during the hearing held on July 21, 2021, the Applicant amended the Application to include the installation of the continuation of the sidewalk on Front Street and a portion of Orchard Avenue, with the installation of an apron to define the entrance into the parking lot; and

**WHEREAS**, the Board considered the following documents submitted by the Applicant:

1. Land Use Board Application Form;
2. Plan entitled “Site Plan Block 134, Lots 1, 2.02, 2.03, 3 & 13” consisting of two (2) sheets prepared by William H. Nicholson Associates, P.A., dated March 29, 2021;

3. Photographs of the subject property;
4. Plans entitled “Building layout – Plan View” consisting of one (1) sheet, prepared by Bridge Machine Company, not dated.

**WHEREAS**, James Winckowski, P.E. the engineer for the Land Use Board provided a review letter of the Application dated June 17, 2021 which was reviewed by the Applicant; and

**WHEREAS**, the Land Use Board held a public hearing on July 21 2021; and

**WHEREAS**, the Applicant was represented by Kevin D. Sheehan, Esq.

**NOW THEREFORE**, the Palmyra Borough Land Use Board makes the following Findings of Fact and Conclusions with respect to the Application:

1. The Application as amended requires a variance pursuant to N.J.S.A. 40:55D-70(d) to permit the use of the existing building for automobile repair, which is not a permitted use in the Industrial Zone; and minor site plan approval for the construction of a gravel parking lot, sidewalk and driveway apron; and

2. The Application as amended requires variances from Section 158-37 E for the number of parking spaces and size of parking spaces provided; Section 158-37(8)(c) for parking lot landscaping standards; and Section 158-37(D) Lighting.

3. During the Application, testimony was offered on behalf of the Applicant by Richard Hagmayer, Manager of F C Kerbeck & Sons; James Miller, P.P., and William Nicholson, P.E.

4. Mr. Hagmayer testified about the current use of the subject property and the proposed use of the building to serve as an expanded location to service high-end automobiles.

5. Mr. Hagmayer further testified that there will be very little increased traffic, as the building will service high-value cars which are typically brought in via flatbed trucks. The proposed use is not due to an increase in repairs, but rather to move some of the repairs to another building and provide the service technicians with more space.

6. Mr. Hagmayer further testified that the hours of operation will be 8:00am to 4:00 pm Monday to Friday.

7. The Applicant presented the testimony of William Nicholson, P.E.

8. Mr. Nicholson testified regarding the variances and waiver requests sought by the Applicant.

9. Mr. Nicholson testified that the existing parking spaces are sixteen (16) feet deep and sufficient. He agreed that the necessary revisions would be made to ensure compliance with the ADA.

10. In response to questions from the Board, Mr. Nicholson consented to a condition that the proposed landscaping buffer will be installed by the Fall 2021.

11. The Applicant presented the testimony of James Miller, P.P. Mr. Miller testified that he reviewed the Application, Master Plan and Zoning Ordinances.

12. Mr. Miller testified that in accordance with established caselaw, the criteria for the grant of bulk or “c” variances can be met and satisfied simultaneously with the proofs to establish the criteria for a use or “d” variance.

13. Mr. Miller testified that to the north is the Kerbeck building; to the east are residences; and to the west is Kerbeck.

14. Mr. Miller testified that the building on the subject property used to be a machine shop and the proposed use is less intensive than the prior use.

15. Mr. Miller testified that in his opinion there are several special reasons in support of the use or (d) variance. First, the property is particularly suited for the use as it is an existing building and readily adaptable. Second, the Application is an efficient use of existing space.

16. Mr. Miller further testified that the proposed buffering will be more consistent with the Code.

17. Mr. Miller testified that the Application satisfies the negative criteria in that the proposed use is similar to those which are permitted and it will occupy an existing building, which will minimize any potential impact on the zone plan.

18. In response to concern raised by a member of the public, Mr. Hagmayer agreed to contact General Motors, which makes their deliveries, and direct them to have all drivers access via Kennedy off Route 73, and not use Front Street.

19. In response to concerns and questions, the Applicant consented to amend its application to include the installation of a continued sidewalk on Front Street and Orchard, with same to be reviewed and approved by the Board Engineer.

20. The testimony and exhibits offered by the Applicant establish that there are special reasons for the approval of the Application in that it promotes the general purposes of zoning, and that the subject property is particularly suited for the proposed uses.

21. The testimony and exhibits offered by the Applicant establish that the use of the subject property for automobile repair will not have a substantial impact on the surrounding area and that it will not substantially harm the intent of the zoning ordinance.

22. The testimony offered by the Applicant supports the finding and determination that the proposed variances and waivers are compatible with the adjoining and existing uses, would not impair the intent and purpose of the zone plan or Master Plan and would not be a substantial detriment to the public good.

#### **RESOLUTION**

**NOW, THEREFORE, BE IT RESOLVED**, by the Land Use Board of the Borough of Palmyra that the Findings of Fact and Conclusions are hereby adopted as though they were set forth herein at length and made a part of this Resolution; and

**BE IT FURTHER RESOLVED**, that the relief requested by the Applicant for minor site plan, use variance and variance/waiver approval as set forth above herein as the Application as amended, be and hereby are **GRANTED**, subject to the following Conditions.

1. The Applicant shall install the landscape buffer no later than December 1, 2021.
2. The Applicant shall amend its plans to include the continuation of the sidewalk along Front Street and Orchard with such revised plans to be reviewed and approved in writing by the Board Engineer.
3. The Applicant shall amend its plans to include the installation of an apron to delineate the entrance into its parking lot, with the same to be reviewed and approved in writing by the Board Engineer.
4. The Applicant shall amend the plans to indicate compliance with Americans with Disabilities Act in reference to the parking spaces, with such amended plans to be reviewed and approved by the Board's Engineer.
5. The approvals contained in this Resolution are conditioned upon the Applicant receiving and complying with any and all other municipal, county, state and federal approvals required and shall comply with all other municipal, county, state and federal rules and regulations; and

**BE IT FURTHER RESOLVED**, that the relief requested by the Applicant is subject to all conditions placed on the record during the hearing held on July 21, 2021; and

**BE IT FURTHER RESOLVED**, that the relief requested by the Applicant is subject to the conditions set forth in the review letter of James Winckowski, P.E.

**BE IT FURTHER RESOLVED**, that the Applicant shall pay all outstanding professional fees and bills in connection with this Application within thirty (30) days after receipt of billing. Should the Applicant fail to pay such professional fees and bills within thirty (30) days, then the Applicant's approval hereinbefore set forth shall be deemed null and void and said approvals shall be deemed withdrawn with no further force and effect; and

**BE IT FURTHER RESOLVED**, that a certified copy of this Resolution of Memorialization and Findings of Fact and Conclusions to which it is attached be sent to the Applicant within ten (10) days from the date of adoption, the Borough Clerk, the Borough Construction Official and any other person who may request a copy of the decision; and the Applicant shall publish a brief notice of this in the official newspaper of the Borough of Palmyra.

Chairman Yetter asked for a motion to approve Resolution 2021-15 Memorialization in the Matter of 614 Kennedy, LLC 614 Kennedy Street Blk 134 Lots 1,2.02,2.03,3, and 13 Application 2020-LUB05. Vice-Chairman Beck made a motion to approve Resolution 2021-15 Memorialization in the Matter of 614

Kennedy, LLC 614 Kennedy Street Blk 134 Lots 1,2.02,2.03,3, 13 Application 2020-LUB05.  
Councilwoman Cloud second the motion.

Mr. Gural noted that Mr. Hagmayer email a copy of the letter sent to General Motors in regard to item number 18 mentioned in the resolution.

**At the call of the roll the vote was as follows:**

AYES: Chairman Yetter, Vice-Chairman Beck, Mr. Gural, Ms. O'Connor, Mr. Robinson, NAY: None  
Abstain: Mr. Rossignol

**NEW BUSINESS**

**Application 2021-05- Wilco Properties, LLC – 5 St & Rt. 73 N, Blk 71 Lot 16**

**Ms. Belton joined meeting at 7:11 pm and Ms. Melvin joined the meeting at 7:12 pm**

Mr. Kristopher Berr from the law firm of Del Duca Lewis, LLC on behalf on Wilco Properties introduced himself and noted the appearance of Joseph Arking CEO and part owner of Roger Wilco Properties and Sharon Brent the sign vendor.

Mr. Berr indicated that Roger Wilco propertied was before the board seeking site plan review and approval for free standing signs in accordance with the ordinance. Mr. Berr indicated they propose two free standing signs be installed on existing poles on the property. Mr. Berr displayed exhibit A-2 noting that they show where the two proposed signs are to be installed on the existing poles. Mr. Berr then went on to Exhibit A-1 page 1 which showed the sign to be installed on the existing poles on Rt.73 and on A-1 page 3 showing the existing poles and the sign to be installed on the Broad Street side of the property. Mr. Berr indicated renovations have been completed on the store and they wished to install the signs to provide an attractive suitable signage that matches the improvements made to the store. Mr. Berr stated the signs comply with the ordinance regarding size, height, material, and number of signs permitted. Mr. Berr noted the non-conformity of the set back from the property line. Mr. Berr noted the sign poles have been in the locations for close to 50 years and are in existing no-conforming locations. Mr. Berr indicated there have been no issues with the sign structures in their current locations. Mr. Berr indicated they believe the existing location pre-exist the NJDOT right of way along the Rt 73 side of property. Mr. Berr noted the review received from Mr. Winckowski indicating the 15-foot set-back and

stated that if the 15-foot set-back was complied with it would put the sign in the parking lot and would be a hardship to the application to relocate due to electrical wiring and location.

Mr. Brewer sworn in Mr. Joseph Arking.

Mr. Arking indicated he was the owner of Roger Wilco, and the signs were to finish up the remodeling done on the property. Mr. Arking indicated they were trying to improve the cosmetic looks of the existing signs and noted the sign on the Rt.73 side was smaller than what is currently in that location.

Councilwoman Cloud asked how long it had been since the sign was on the poles on the Broad Street side of the property. Mr. Arking indicated it was about three years.

Mr. Winckowski indicated he believed a variance was required for both signs as the ordinance indicates you may reface existing signs, but a complete reconstruction of the signs is different. Mr. Winckowski noted the Broad Street sign was in place on the two poles but what they are proposing is completely new which was not there today, he noted the sign on Rt 73 is different as they are proposing a new message board with an upper sign area and a decorative feature to the pole. Mr. Winckowski also noted it is the responsibility of the applicant to make sure the sign is in compliance with the NJDOT requirements.

Having no other testimony, Chairman Yetter asked for a motion to open to the public for comment on the application. Vice-chairman Beck made a motion to open to the public for comment on the application. Councilwoman Cloud second the motion. All present voted in favor of the motion.

Seeing no one wanting to comment Chairman Yetter requested a motion to close the public comment section of the application. Vice-Chairman made a motion to close the public comment section of the application. Councilwoman Cloud second the motion. All present voted in favor of the motion.

Chairman Yetter asked for a motion to approve Application 2021-05 Wilco Properties with the site plan and the two set-back variances for the signs as presented. Mr. Gural made a motion to approve LUB Application 2021Resolution 2021-05 Wilco Properties with the site plan and the two set-back variances for the signs as presented. Vice-Chairman Beck second the motion.

**At the call of the roll the vote was as follows:**

AYES: Chairman Yetter, Vice-Chairman Beck, Mayor Tait, Councilwoman Cloud, Mr. Gural, Ms. Belton, Ms. O'Connor, Mr. Robinson, Mr. Rossignol

NAY: None



Chairman Yetter then went on to:

**Application 2021-02 – James Moffett, Jr. – 202 Cinnaminson Avenue, Blk 98 Lots 11, 12.02**

Mr. Brewer indicated to the board that this is a use variance noting that the Board will be acting in its board of adjustment capacity, noting that the Mayor Tait and Councilwoman Cloud will not be voting but may participate and an affirmative vote of five is required of the seven voting members to be approved. Councilwoman Cloud noted that she was a notified party within the two hundred ft list of the applicant. Mr. Brewer suggested that Councilwoman Cloud not participate and not be part of the hearing of the application. Councilwoman Cloud dismissed herself and left the meeting.

Mr. Brewer then sworn in Mr. Moffett.

Mr. Moffett stated that he was before the board requesting a variance for a shed on his property at 202 Cinnaminson Avenue. Mr. Moffett noted that the shed was located on lot 12.01 which is adjacent to lot 11 which is where his primary residences is located.

Mr. Brewer indicated that applicant needed to establish criteria as to the right to have that variance. Mr. Brewer indicated the zoning ordinance of the Borough of Palmyra does not permit commercial storage containers such as shown in the pictures submitted. Mr. Brewer indicated a review letter was completed by Mr. Winckowski, LUB Engineer, and sent to the applicant which should have explained what was needed; Mr. Brewer indicated that Mr. Moffett needed to establish criteria and motive as to why the Land Use Board should grant the use variance. Mr. Moffett indicated in his conversation with Ms. Kilmer regarding the application his understanding was that it was not the material used for the storage shed but it is the quantity of have a third storage space, one over the two allowed per the ordinance. Mr. Moffett indicated the shed is one and one-half feet closer to the property line than allowed by the setback and that would be addressed in accordance with the determination of the Board. Mr. Winckowski stated that currently there are three storage structures on the property, a wooden garage, a woodshed, and shipping container. Mr. Moffett indicated yes. Mr. Winckowski indicated the tract of land consists of two lots, which is one lot as they are merged together under common ownership. Mr. Winckowski stated the relief needed is setback requirements for the three sheds and the shipping container, which is of a construction which is not consistent with the ordinance. Mr. Winckowski indicated the storage containers must match in construction, material, and color of the primary structure in which it is an accessory to. Mr. Winckowski stated the property already has two accessory structures, which are sheds, and the storage containers is the third which the ordinance indicated that only two are permitted. Mr. Winckowski asked when the sheds were constructed and what is the use of the shipping container. Mr.

Winckowski noted that if it was used for storage of commercial goods that would require a use variance. Mr. Moffett indicated the shed/shipping container has personal items from his father and it was installed in August of 2020 without a permit. Mr. Moffett indicated the other two storage sheds were installed twenty or thirty years ago. There was discussion regarding the material and color of the shed/shipping container. Mr. Moffett indicated he had placed some ornamental wood at the front of the structure which faces the street, and their plans were to place more bricks around it. Mr. Winckowski asked if Mr. Moffett had photos or a better description of what he intended to do with the appearance change of the shed/shipping container. Mr. Moffett indicated the setback making the 10 ft behind the primary structure and the 36 inches from the property line would be addressed but the third accessory structure would require a variance. Mr. Winckowski asked Mr. Moffett if he could testify as to the need for the third accessory structure. Mr. Moffett indicated the wood garage stores their equipment for lawn mowing, the shed contains his wife's materials and boxes brought over from Philadelphia and the shipping container box has his father's personal affects.

Mr. Brewer stated Mr. Moffett has indicated he would move the storage container to comply with the setback requirements negating the need for the variance and amending his application to not seek a variance and comply with the required setbacks. Mr. Moffett indicated yes.

Mr. Beck asked how long the shipping container would be on the property. Mr. Moffett indicated he wanted the shed to be permanent. There was some additional discussion regarding the shed/shipping container and the looks and positioning of it on the property.

Mr. Brewer indicated if an applicant has inadequate proofs but are willing to amend and add them, they can request to adjourn to the next meeting when they have sufficient proofs to submit to the board. Mr. Moffett asked if we could proceed in that fashion. Mr. Gural indicated there were a number of people present tonight which wanted to hear the application, may have comments and should be heard, perhaps they may not be available next month. Chairman Yetter agreed and requested a motion to open to the public. Vice-chairman Beck make a motion to open to the public for comments regarding application 2021-02. Mr. Robinson second the motion.

All voted in favor of the motion.

Mr. Brewer then sworn in Mr. Stephen Hawk.

Mr. Hawk stated he was hired by Mr. Friedman. Mr. Hawk indicated he was a licensed planner in the state of New Jersey.

Mr. Friedrich indicated he was present but was having trouble with his microphone and camera.

Mr. Brewer then swore in Mr. Friedrich.

Mr. Friedrich indicated he lived at 206 Cinnaminson Avenue with his family which included a multi-disabled son. Mr. Friedrich stated his reason for objection to the approval of a use variance to allow a shipping container, go beyond the fact that it will reduce property values and sale ability and it can also be seen above a 6ft fence; is it sits right next to his home and is only one and one-half foot from the property line. Mr. Friedrich indicated that when it rains, water pools around the container but mostly spills over to his property near his basement and foundation. Mr. Friedrich indicated its placement could lead to water intrusion and foundation damage. Mr. Friedrich asked to display photos he wanted the board to see. Mr. Brewer asked Mr. Friedrich if he took the pictures and video he wanted to present. He indicated yes. Mr. Friedrich described and explained the photos presented. Mr. Brewer asked these photo exhibits to be labeled O-1, O-2, O-3, O-4 and the video O-5. Mr. Friedrich indicated the containers are designed with minimal ventilation and to limit moisture to protect shippers' products. Mr. Friedrich noted that when they are re-purposed for storage needs and things like gas powered tools or mowers and or propane tanks are stored within, they can and have exploded. Mr. Friedrich stated it is adjacent to his home where they spend 70% of their time. Mr. Friedrich indicated he has observed several contractors coming and going from the property and is concerned that so sort of combustible which may be returned when no one else is home may be placed inside the container. Mr. Friedrich indicated he had multiply concerns about the container which was placed without the proper permits and fears for the safety of his family and home.

Mr. Hawk previously sworn in by Mr. Brewer indicated he has been practicing planning since 1988 and has been licensed by the State of New Jersey since 1994. He stated he worked for the City of Vineland for 28 years as a staff planner and he has been in private practice for the last five years and has been deemed an expert before many boards. Mr. Hawk stated he has reviewed the application and has been to the adjacent property to view the container. Mr. Hawk indicated he has canvassed the neighborhood and reviewed the ordinance and master plan of the Borough of palmyra and has also heard testimony from the applicant. Mr. Hawk noted that what is before the board is the variance permitting three accessory structures instead of two. Mr. Hawk indicated the applicant did not provide any special reasons and or any benefits for why it should be granted. Mr. Hawk noted that when walking the neighborhood, 10 blocks surrounding this block, and looking at almost 200 properties some of which are larger than the subject property, he noted that only four had two accessory structures and none had three or more. Mr. Hawk indicated that the applicant failed to meet the burden and if the board agreed to approved the

third assessor structure the board should require a more enhanced setback requirement than what is currently in the ordinance.

Mr. Brewer then swore in Mr. Cloud.

Mr. Cloud indicated he resided at 208 Cinnaminson Avenue and opposed the structure being approved for several reasons. Mr. Cloud indicated the structure represents an eyesore to the neighborhood, it is visible from the street in its current positioning and if moved back would create more of an impediment of vision from his yard and others. Mr. Cloud noted this is a 100% R-1 residential area and having an industrial shipping container sitting next to the house is distracting from the character of the neighborhood and is concerned that it would have a negative impact on property values and a negative desirability factor for the area.

Chairman Yetter asked for a motion to close the public comment section of application 2021-02. Vice-Chairman Beck made a motion to close the public comment of the hearing.

Ms. Melvin asked if she heard correctly that contractors were coming and going from the property pick-up and dropping off equipment. Mr. Friedrich indicated he has seen many contractors coming and going from the property but did not know if they were affiliated with his business, noting he owns multiple properties. Mr. Friedrich indicated he could not testify as to what is dropped off to him.

Vice-Chairman Beck retracted the motion to close the public comment section.

Mr. Moffett indicated he does work in residential real estate Philadelphia, and tools are located on site at those locations. Mr. Moffett noted that the items in the recycled shed are things that belonged to his father. Mr. Moffett indicated if Mr. Friedrich is seeing people coming and going from the property it is likely his father-in-law who is in a business similar to his. Mr. Moffett indicated his tools are electrically powered and they do not have gas powered tools.

Chairman Yetter asked for a motion to close the public comment section of application 2021-02. Vice-Chairman Beck made a motion to close the public comment of the hearing. Mr. Gural second the motion. All voted in favor of the motion.

Mr. Moffett requested the board carry the application to the next meeting so that he may provide additional information for the exterior look of the shed.

There was discussion regarding the reason for carry over and if the aesthetics of the third structure made a difference. Mr. Gural noted the board's decision at this point is whether the third accessory structure will be allowed. There was additional discussion regarding other options and the third structure accessory.

Vice-Chairman Beck indicated there is nothing that allows a shipping container to become a permanent structure on a property you can request short-term permits for moving, etc. but not as permanent structures.

Mr. Gural indicated all should keep in mind that this variance is a permanent decision, that stays with the property. Mr. Gural stated that the property could be sold by Mr. Moffett to someone else who would be allowed to keep the same structure who may not do with it as Mr. Moffett does. Mr. Moffett noted he does not intend to sell the property.

Mr. Rossignol asked if this would set precedence for others to place shipping containers in their back yards. Mr. Brewer indicated that a planner could use that decision in another application noting that there have been prior approvals of that kind.

Mr. Brewer stated, that if the Board feels that it has had enough information and testimony to decide on the application, it is within the board's power to call for a vote on the application.

Chairman Yetter requested a motion to carry this application to the next meeting. Vice-Chairman Beck made a motion to carry the application to the next meeting. Mayor Tait seconded the motion.

**At the call of the roll the vote was as follows:**

AYES: Ms. O'Connor, Mrs. Melvin

NAYS: Chairman Yetter, Vice-Chairman Beck, Mayor Tait, Mr. Gural, Ms. Belton, Mr. Robinson, Mr. Rossignol

Motion denied, request to carry the application is denied.

Chairman Yetter requested a motion to deny the application as amended. Mayor Tait made a motion to deny the application as amended. Vice-Chairman Beck second the motion.

**At the call of the roll the vote was as follows:**

AYES: Chairman Yetter, Vice-Chairman Beck, Mayor Tait, Mr. Gural, Ms. Belton, Ms. O'Connor Mr. Robinson, Mr. Rossignol

NAYS: Mrs. Melvin

Motion carried; application 2021-02 is denied.

Mr. Gural inquired how long Mr. Moffett had before the structure needed to be removed. Mr. Gural indicated it is essentially a code violation now and most people have 10 days to abate a violation. Mrs. Kilmer agreed.

## **PUBLIC COMMENT**

Chairman Yetter asked anyone wishing to make comments, state their name and address for the record.

Chairman Yetter asked for a motion to open to the public for comment.

Mr. Gural made a motion to open the meeting to the public for comment. Vice-Chairman Beck second the motion.

All voted in favor of the motion.

Mr. Friedrich thanked the board for their time and consideration to the matter noting he is relieved to know it will be removed.

Mr. Cloud thanked the board for their consideration to this matter.

Mr. Rader stated that he hoped the Land Use Board would continue to consider the public's right to speak at public meetings.

No one else wishing to make a comment, Chairman Yetter asked for a motion to close the public comment. Vice Chairman Beck made a motion to close the public comment. Mayor Tait second the motion.

All voted in favor of the motion.

Having no further business, Chairman Yetter requested a motion to adjourn the meeting. Vice-Chairman Beck made a motion to adjourn the meeting. Mayor Tait second the motion.

All voted in favor of the motion.

Meeting was adjourned at 8:56 pm

Doretha R. Jackson, RMC

Land Use Board Secretary, Borough of Palmyra

Adopted: September 15<sup>th</sup>, 2021