

**BOROUGH OF PALMYRA**  
**LAND USE BOARD MEETING MINUTES**  
**July 26<sup>th</sup>, 2023 at 7:00 PM**

**CALL TO ORDER**

The Borough of Palmyra Land Use Board meeting was called to order by Land Use Board Chairman Lewis Yetter at 7:11 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. Public Notice of this meeting pursuant to the Open Public Meetings Act has been given by the Land Use Board Secretary in the following manner:

- A. Posting written notice on the Official Bulletin Board at the Palmyra Borough Hall on January 30<sup>th</sup>, 2023
- B. Mailing written notice to the Burlington County Times and Courier Post on January 31<sup>st</sup>, 2023
- C. Notice to all board members.

**ROLL CALL**

Chairman Yetter asked for a roll call of the board:

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

ABSENT: Councilwoman Cloud, Ms. Pappas, Mrs. Cooper

**APPROVAL OF THE MINUTES**

Chairman Yetter asked if there were any questions or comments regarding the May 24<sup>th</sup>, 2023, Land Use Board meeting minutes, and the Land Use Board Closed Session meeting minutes. Seeing none, Chairman Yetter requested a motion to approve the minutes. Mayor Tait made the motion to approve the May 24<sup>th</sup>, 2023, Land Use Board meeting minutes, and the Land Use Board Closed Session meeting minutes. Vice-Chairman Beck 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, Ms. Belton, Mr. Gural, Mr. Rossignol

NAY: None

**CORRESPONDENCE**

Chairman Yetter stated the was no correspondence.

**BOROUGH COUNCIL UPDATES**

Mayor Tait noted that National Night Out will be held on August 1, 2023 in and around Borough Hall. Mayor Tait also stated that the turf field would be replaced by September 10, 2023 thanks to the redeveloper of the Rt 73 project and a grant the municipality received.

**OLD BUSINESS**

Chairman Yetter noted Resolution 2023-11/ Memorialization of Application 2023-02 Rt.73, Madison St. and Jefferson St, LLC – Block 137 Lots 1, 1.01, 2, 3, 4 & 5, -Site Plan Approval.

**BOROUGH OF PALMYRA  
LAND USE BOARD  
RESOLUTION 2023-11**

**PALMYRA BOROUGH LAND USE BOARD RESOLUTION OF MEMORIALIZATION IN THE  
MATTER OF ROUTE 73 AND JEFFERSON STREET  
APPLICATION NO. 2023-LUB-02**

**WHEREAS**, Route 73 Jefferson and Madison LLC (“Applicant”) is the operator of property located at Route 73 and Jefferson Street, Palmyra, New Jersey, more particularly described as Block 137 Lots 1, 1.01, 2, 3, 4 & 5 on the Tax Map of the Borough of Palmyra, (“subject property”); and

**WHEREAS**, the subject property is located in the HC (Highway Commercial) and I (Industrial) Zones; and

**WHEREAS**, Applicant filed an application for preliminary and final major site plan approval and a use “d” variance, conditional use d (3) and bulk variances to construct a new 4,800 sf showroom for automobile sales, a new 2,600 sf storage building, and outdoor display area and reconfiguring the parking lot in support of the new facilities (“Application”); and

**WHEREAS**, the Application requires relief from Section 158-20D for the portion of the subject property located in the HC District:

- Front yard setback of 10.54 feet proposed whereas 50 feet is required;
- Side yard setback of 5 feet is proposed whereas 15 feet is required;
- Aggregate side yard setback of 15.3 feet is proposed whereas 35 feet is required;

- Total lot coverage of 91.9 % proposed whereas a maximum of 70% is permitted;

**WHEREAS**, the Application also requires relief from Section 158-22D for the portion of the subject property located in the I District:

- Front yard setback of 10.54 feet proposed whereas 50 feet is required;
- Side yard setback of 10.3 feet is proposed whereas 20 feet is required;
- Aggregate side yard setback of 15.3 feet is proposed whereas 45 feet is required;
- Rear yard setback of 40 feet exists whereas 50 feet is required;

**WHEREAS**, the Application also requires relief from the following Sections:

- From Section 1012A(C)(8)(a) and (b) to permit the bottom of a freestanding sign to be less than eight (8) feet above the level of the grade where the driveway intersects the street and less than 50 feet from the street or driveway intersection;
- From Section 1012A(C)(7) to permit a freestanding sign to be 8.58 feet from the property line along Jefferson Street whereas 15 feet is required;
- From Section 1012A.E to permit two (2) façade signs on each principal façade where one façade sign is permitted.

**WHEREAS**, automobile sales are prohibited in the I (Industrial) Zone, so that a variance pursuant to N.J.S.A.40:55D-70(d)(1) is required; and

**WHEREAS**, automobile sales are a conditional use in the HC (Highway Commercial) district and the Applicant does not meet all of the conditions (minimum number of vehicles displayed; minimum distance of displayed vehicles from street line; and maximum access drive width) so that a variance pursuant to N.J.S.A.40:55D-70(d)(3) is required; and

**WHEREAS**, the Application was submitted with the consent of the owner of the subject property; and

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

**WHEREAS**, a hearing on the Application was held on May 24, 2023; and

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

1. Land Use Board Application Form;
2. Plans for Block 137, Lots 1, 1.01, 2, 3, 4 & 5, consisting of three (3) sheets, prepared by William H. Nicholson Associates, P.A., dated February 21, 2023;
3. Architectural Drawings, consisting of three (3) sheets, prepared by Wiedmann Zelig Group, LLC, dated March 20, 2023;
4. Color rendering of the proposed improvements, prepared by Wiedmann Zelig Group, LLC, dated March 20, 2023;
5. Boundary and Topographic Survey for Lots 1, 2 3, 4 & 5, Block 137, prepared by DPK Consulting, LLC, dated May 2, 2022; and

**WHEREAS**, Michael J. Roberts, P.E. the engineer for the Land Use Board provided a review letter of the Application dated April 19, 2023 which was reviewed by the Applicant; and

**WHEREAS**, Megan Stanley, PP, AICP, the planner for the Land Use Board prepared a review memorandum of the Application dated May 15, 2023 which was reviewed by the Applicant; and

**WHEREAS**, the Land Use Board held a public hearing on May 24, 2023; 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 Applicant seeks to construct a new showroom on Route 73 for its Rolls Royce vehicles and construct an accessory building in which it will park high-end vehicles. The proposed showroom is a conditional use, but does not meet all the conditions set forth in the code, thus requiring a d (3) variance.

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

3. Mr. Hagmayer testified about the current use of the subject property and the proposed use of the buildings. Rolls Royce's are currently shown and sold, but in an existing building. The proposed development will not result in any increase in staff or inventory.

4. Mr. Hagmayer further testified that they expect to sell 1 or 2 Rolls Royce's per month, and there will only be one person in the building. He testified that Kerbeck transports cars for service on flatbed trucks. The high-end cars they bring in for service will be in the new proposed accessory building, and there will not be any employees working in the proposed accessory building.

5. The Applicant presented the testimony of William Nicholson, P.E., who provided testimony about his credentials and was accepted as an expert in the field of civil engineering.

6. Mr. Nicholson testified as to Exhibit A-1, a site plan with buildings outlined in pink and red, and Exhibit A-2, Sheet 1 of the Site Plan with a red circle in the location of the freestanding sign.

7. Mr. Nicholson testified as to the proposed uses for the improvements and the necessary variances. He testified that the showroom building is five feet from the street line but not from the curb line, resulting in the need for a variance.

8. Mr. Nicholson testified that the two driveways to the accessory building are both ten feet wide and the one between them is 25 feet for a combined width of over 35 feet, resulting in the need for the d(3) conditional use variance.

9. He further testified that the first floor of the showroom is 3 feet above grade because of the floodplain, and that there are 39 parking spaces provided while 20 are required. The trash is taken to another location on the adjacent lots and there are several wall mounted lights which spill onto the driveway but not offsite.

10. He further testified that the Applicant will comply with the review letter of the Board Engineer and the review memorandum of the Board Planner, and that there will not be any Boxwoods.

11. The Applicant presented the testimony of Mark Wiedmann, AIA who testified as to his credentials and was accepted as an expert in the field of architecture.

12. Mr. Wiedmann testified as to Exhibit A-3, four sheets of elevations. He testified that the showroom is known as a “jewel box” design which emphasizes the cars in the interior. The building will have the Rolls Royce branding of purple and gray and light gray concrete.

13. Mr. Wiedmann testified as to Exhibit A-4 (Floorplan) and A-5 (4 elevations), which include the Rolls Royce sign detailed in gold, and the Rolls Royce signs and logos.

14. Mr. Wiedmann testified that the accessory building will match the existing beige and gray. There will be no workers, and it will be open in case of flooding, and it will not be occupied. It is solely for the storage of vehicles.

15. The Applicant presented the testimony of James Miller, P.P. Mr. Miller testified about his credentials and was accepted as an expert in the field of planning.

16. Mr. Miller testified that he reviewed the Application, Master Plan and Zoning Ordinances, and testified as to the necessary proofs to justify the variances sought in conjunction with the Application.

17. Mr. Miller provided his opinion, as set forth in the case of Price v. Himeji, LLC, 214 N.J. 263 (2013) that the justification for bulk (c) variances are subsumed in the proofs for a use (d) variance, such that if the proofs are sufficient to justify the use (d) variance, no further proofs are necessary for the bulk variances.

18. Mr. Miller testified that a grant of the use (d)(1) variances advances purposes (a), (public health, safety and welfare) (g) (provide sufficient space and location for a variety of uses) and (m) (efficient use of land) of the Municipal Land Use Law.

19. He further testified that the site is particularly suitable because of the existing improvement and having served as an automobile sales and service site for many years. The proposed use is consistent with existing land use patterns. He further testified that the Application proposes an adaptive re-use of the site.

20. As to the d (3) variance, Mr. Miller testified that the site remains appropriate despite the failure to meet three of the conditions.

21. The required minimum of 5 spaces is based on a typical desire to want dealers to have enough stock and to avoid service station dealerships. In contrast, the proposed showroom is just a relocation of existing sales area, and Kerbeck in total has well over 5 display areas. He further testified that Route 73 has a wide right-of-way while the cartway is much narrower, and that the driveway width is a function of existing site conditions. The driveway does not conflict with traffic in that all trips are into the site.

22. Mr. Wilson further testified that the waivers for signage are reasonable and achieve the purpose of the regulations, and strict enforcement would lead to practical difficulties.

23. He testified that the location sign is the optimal spot because it would be blocked if it were set back further, and there are no sight triangle problems. As to the number of façade signs, the actual lettering is small and it meets the objective to have attractive signs.

24. Mr. Miller testified that there is no detriment because the surrounding neighborhood is the Kerbeck facility. There is no impact to other businesses and it is consistent with existing character of the area.

25. Mr. Miller testified that as to the waiver for the freestanding sign, it will not interfere with sight triangles.

26. In response to questions raised by the Board Engineer, the Applicant will request the DOT to remove the specified curb cut, with the Board Engineer to be provided a copy of the request to the DOT.

27. The Applicant consented to the request to shift the handicap space, with same to be subject to the review and approval of the Board Engineer.

28. The Applicant consented to a condition that it install railing or a wall to prevent pedestrians from falling in the three-foot gap, with same to be subject to the review and approval of the Board Engineer.

29. The Applicant consented to the condition that it will comply with the obligation to submit an application for a Floodplain Development Permit subject to the review and approval of Tracy Kilmer, Certified Floodplain Manager.

30. The testimony and exhibits offered by the Applicant establish that there are special reasons for the approval of the Application in that it promotes purposes a, g and m of the Municipal Land Use Law, and that the subject property is particularly suited for the proposed uses.

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

35. The testimony offered by the Applicant supports the finding and determination that the proposed variances and waivers set forth above 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 preliminary and final major site plan, use, conditional use and bulk variance and waiver approval as set forth above herein, be and hereby are **GRANTED**, subject to the following Conditions.

1. Applicant will request the DOT to remove the specified curb cut, with the Board Engineer to be provided a copy of the request to the DOT.

2. The Applicant will revise the plans to shift the handicap space, with same to be subject to the review and approval of the Board Engineer.

3. Applicant will revise the plans to include installation of a railing or a wall to prevent pedestrians from falling in the three-foot gap, with same to be subject to the review and approval of the Board Engineer.

4. Applicant will submit an application for a Floodplain Development Permit subject to the review and approval of Tracy Kilmer, Certified Floodplain Manager.

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 May 24, 2023; and

**BE IT FURTHER RESOLVED**, that the relief requested by the Applicant is subject to the conditions set forth in the April 19, 2023 review letter of Michael J. Roberts, P.E., with same to be confirmed in writing; and

**BE IT FURTHER RESOLVED**, that the relief requested by the Applicant is subject to the conditions set forth in the May 15, 2023 review memorandum of Megan Stanley, PP, AICP, with same to be confirmed in writing.

**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 if there were any comments or questions regarding the resolution. Seeing none Chairman Yetter asked for a motion to approve resolution 2023-11/Memorialization of: **Application 2023-02 Rt.73, Madison St. and Jefferson St, LLC – Block 137 Lots 1, 1.01, 2, 3, 4 & 5, -Site Plan Approval**

Vice-Chairman Beck made the motion to approve Resolution 2023-11. Mr. Gural 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, Ms. Belton, Mr. Gural, Mr. Rossignol

NAY: None

## **NEW BUSINESS**

Chairman Yetter stated there was no new business.

## **PUBLIC COMMENT**

Chairman Yetter requested a motion to open the meeting to the public for comment. Mayor Tait made a motion to open the meeting to the public for comment. Vice-Chairman Beck second the motion.

**All members present voted in favor of the motion.**

Chairman Yetter asked anyone making comments to state their name and address for the record.

Seeing no one wishing to make a comment Chairman Yetter requested a motion to close the public comment portion of the meeting. Mayor Tait made a motion to close the public comment portion. Vice-Chairman Beck second the motion.

**All members present voted in favor of the motion.**

## **ADJOURNMENT**

Having no further business, Chairman Yetter requested a motion to adjourn the meeting. Mr. Gural made a motion to adjourn the meeting. Ms. Belton second the motion.

**All members present voted in favor of the motion.**

Meeting was adjourned at 7:18 pm

Doretha R Jackson, RMC

Land Use Board Secretary

Borough of Palmyra

Approved: September 27, 2023