

**DELRAN TOWNSHIP  
ZONING BOARD  
MUNICIPAL BUILDING  
REGULAR MEETING MINUTES  
FEBRUARY 16, 2023 – 7 PM**

**OPEN PUBLIC MEETINGS ACT**

The Delran Township Zoning Board regular meeting of Thursday, February 16, 2023, was called to order by Mr. Mormando at 7:07 PM in the Delran Township Municipal Building.

The Open Public Meetings Act Announcement was read by Mr. Mormando and the Pledge of Allegiance was performed.

**ROLL CALL**

**Present:** Mr. Mormando, Mr. Moore, Mr. Aleszczyk, Mrs. Parento, Mrs. Custer, Mr. Weir & Mr. Baida

**Absent:** Mr. Merced

**Professionals:** Lou Garty, Attorney, Mr. Ed D’Armiento, Engineer & Mr. Joseph Petrongolo, Planner

**RESOLUTIONS**

**A.**

Carr Automotive, Inc.

2913 Rt. 130 S.

Block 9.04, Lot 5

ZZ2023-05

Appeal of Administration decision/Interpretation

**Mrs. Parento made a motion to adopt Resolution ZZ2023-05. Mr. Moore seconded the motion. The results are as follows:**

**Ayes:** Mr. Mormando, Mrs. Parento, Mr. Moore, Mr. Aleszczyk, Mr. Weir, Mrs. Custer & Mr. Baida

**Abstain:** None

**Absent:** Mr. Merced

**APPLICATIONS**

**B.**

Adeel & Umair Rama (Starz Auto Group)

9008 Rt. 130 N.

Block 128, Lot 15

ZN 2022-08

Use Variance

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On August 2, 2022, the Applicants, Adeel and Umair Rama filed an Application dated “June 2022” on behalf of their business partnership, Starz Auto Group with the Delran Township Zoning Board regarding the real property identified as Block 128, Lot 15 on the Township’s Official Tax Map, commonly known as 9008 Rt. 130, in Delran Township to obtain Use variance (d1) relief as to the proposed use to permit the Applicants to operate a business on the site for used auto sales, vehicle services, and preparation for sale, where such use is not permitted in the zone. The property is located in the C-2 (General Commercial District) zone and the Applicant submitted an affidavit of mailing and publication to the Board, demonstrating that notice of the hearing on the Application was provided in a manner that complies with the public notice requirements under the Municipal Land Use Law and, the Applicants requested that the matter be adjourned from the December 15, 2022 meeting to the January 19, 2023 meeting, and thereafter requested that the matter be adjourned to the February 16, 2023 meeting, and it appeared that based upon the submissions seeking use variance relief only and not site plan approval, that the Board found that the jurisdictional requirements of the Delran Township Code had been satisfied and that all procedural requirements of the Code had either been satisfied or waived by the Board such that the Board found that it had jurisdiction over the Application and the subject matter and the Application was deemed complete, and the Board has considered the recommendations and comments of its professional staff, namely the review letters submitted by the Board’s Professional Planner, Joseph Petrongolo, LLA, RLA, PP, and by the Board’s Engineer, Edward D’Armiento, P.E., CME, of CME Associates as well as the comments and recommendations made at the hearing of this matter by the Board’s Professionals, and the hearing on the Application was conducted over the course of two meeting sessions which took place on February 16, 2023, during which the following documents and submissions were presented:

**Submissions and Testimony of Record at the Hearing.** In reaching its decision, the Board relied on the submissions, exhibits, and witness testimony identified below:

- a. *The Applicant’s submissions:*
  - Zoning Board Application form with checklist and narrative description
  - Site Sketch, dated June 22, 2022
  
- b. *Reports from Board professionals and staff:*
  - Review letter dated July 20, 2022 by the Board’s Professional Planner, Joseph Petrongolo, LLA, RLA, PP of Remington & Vernick Engineers
  - Review letter dated August 26, 2022 by the Board’s Engineer, Edward D’Armiento, P.E., CME, of CME Associates
  - Site Plan Review by Walt Bauer, Fire Official (dated December 1, 2022)

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*c. Exhibits:*

- Exhibit A-1: Site sketch
- Exhibit A-2: Aerial photo of the site
- Exhibit A-3 Site sketch

*d. Testimony:* The Applicant’s counsel, Patrick McAndrew, Esq., provided a summary of the application, noting the property is in the C-2 (General Commercial) Zone, and that the use is not a permitted use in the zone. The Applicant proposes to use the site in connection with a used auto sales business. Mr. McAndrew, presented the following witnesses who testified at the hearing on February 16, 2023:

William Nicholson, P.E., was sworn in and accepted by the Board as an expert in civil engineering and site design. Mr. Nicholson provided the orientation of the site, summarized the existing conditions, and identified the Exhibits marked at the hearing. He described Exhibit A-1, a site sketch, and described the proposed buildings and their location.

Umair Rama, the owner of Starz Auto Group was sworn in and testified as to the proposed operations, describing the proposed use of the site for the sale of vehicles. He testified that the Applicant would continue to have its main location for operations at the current site on Carriage Lane, and that this area will be used only for the detailing and service of the cars. He testified as to the hours of operation being M-F 10am – 7pm; Sat 10am-6pm; closed on Sundays. They will have 3-8 employees on site during business hours and the site will have lighting and security cameras. There will be dumpsters for refuse. He testified describing how cars will be delivered to the site from the Carriage Lane location, that they will be driven to this location by a single driver or the customer who will then drive the vehicle off-site. Mr. Rama agreed to the restriction that no car carriers would be permitted at this location. It was suggested that signage for the site would be presented at the time of the review of the Site plan application. Mr. Rama described the operations at the Carriage Lane facility, which can accommodate 80 vehicles and acknowledged that the proposed site would be limited to parking no more than 25 cars at this location, and stated the business would have approximately 20-25 cars for sale at this location. He testified that the purpose of this facility would be to perform repairs and detailing only on the vehicles for sale. He testified that most used auto sales are being done by internet, then they set up financing, so that there are very few “walk-in” customers to the site. In response to a question, he testified that the site would be used to perform service at this location in preparation for the sale of the vehicles, that the technicians will be doing oil changes, brake jobs, fixing lights, and detailing on the vehicles being sold, but that the business does not do “regular” maintenance service for vehicles, such as diagnostic or transmission repairs.

In response to a question by Mr. D’Armiento, who noted that the site currently has fewer than 20 parking spaces, which does not account for parking which will be required for customers and employees. Mr. Rama revised his prior testimony stating that altogether, counting employees plus the vehicles offered for sale, the business would have no more than 20-25

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vehicles on the site at any given time. Mr. D’Armiento asked Mr. Nicholson to verify the number of parking spaces on the site. Mr. Nicholson provided testimony, in which he included the stalls inside the garage area as spaces. There was a discussion concerning the parking on the site in which the Applicant agreed to limit the number of vehicles on the site to what is permitted upon site plan approval. There was a discussion about traffic circulation on the site, and whether circulation would impact the number of parking stalls able to be designated for use on the site. The Applicant agreed to cap the total number of parking spaces for the site at 20, for the purpose of seeking Use variance relief.

James Miller, PP, AICP was sworn in and accepted as an expert in professional planning. Mr. Miller identified Exhibit A-2, an Aerial photo of the site, and provided orientation of the site, features of properties in the zone, adjacent uses on Rt. 130 and noted that there was another car dealership on Rt. 130. Mr. Miller addressed the “special reasons” burden of proof and provided the basis for his opinion that granting the use variance would advance the goals of the MLUL under part A (to encourage municipal action to guide the appropriate use or development of all lands, in a manner which will promote the public health, safety, morals, and general welfare); G (to provide sufficient space in appropriate locations for a variety of different types of uses.

Mr. Miller addressed the requirement that the Developer demonstrate that the site is “Particularly suited for” the proposed use and testified that his opinion is based upon various factors in the area, namely the viability of the commercial use of the site, which is compromised by the existing traffic patterns to the site; that the site fronts a ramp from Rt. 130, which provides access onto Bridgeboro Road. The location of the site limits its accessibility. There is limited visibility, which limits the viability of some types of commercial uses. He testified as to his opinion that a used car dealership is not impacted by the site’s lack of visibility as much now, due to the current trend for online sales by buyers. As a result, he doesn’t see a need for the Applicant to seek large signage (which feature was not included in the application filed). He testified as to his opinion that the proposed use would have a lesser impact than other uses due to a lesser amount of traffic, but the Applicant had not performed or engaged in a traffic study and there was no testimony from a traffic engineer.

Mr. Miller testified as to his opinion that the site is suitable for the proposed use because of: (1) the shape of property limits other commercial uses which are permitted in the zone; (2) due to surrounding land use patterns; (3) a car dealership is located nearby, which demonstrates that location is compatible for use as a car dealership; (4) the proposed use is a satellite for an existing use located in another site in the Township; and (5) the approval would result in an adaptive re-use of site, which has been unoccupied for a period of time.

As to the negative criteria, and the required showing of a lack of negative impacts (from traffic, noise, visual effects), Mr. Miller offered his opinion that there would be no detriment to the public good; that the use will not impair intent of Zone plan or the zoning ordinance but did not testify specifically why there would not be a negative impact from traffic, noise or other elements. Mr. Miller testified as to his opinion that the use is compatible with other uses in the

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area, noting there is a Home Depot across Rt. 130 (but did not state why the Applicants' use is compatible with that use); that the property is on the same side of other automotive and truck repair businesses; he acknowledged that there is a residential use to the east of the site, but stated his opinion that the interaction (effect on) the adjacent residential properties would not result in a negative impact on those properties because the site is already buffered by some vegetation. He testified that the use is less intensive than other uses for this site including a traditional auto dealership, that it will have less traffic, because there are fewer repairs being performed such that granting the relief will advance the identified purposes of MLUL. Mr. Miller noted that because the Application is not seeking Site Plan approval at this time, the Board can include conditions for the site plan which will enhance the features of the site (to address parking, lighting, and other aspects) which will serve to lessen the impacts of the variances which will be required.

*e. Comments by the Board's Professionals and other testimony:*

Mr. D'Armiento briefly reviewed the items in the Engineering review letter, noting that that there is not enough space to address site circulation, that the parking levels affect site suitability, which is a required element to show that the Applicant meets the standard of proof for granting Use variance relief.

Mr. D'Armiento noted that as stated in his review letter, the site access driveway is not within the Applicant's lot. Mr. Nicholson said the tax map is wrong, and that the access is indicated in the survey. Mr. D'Armiento and Mr. Petrongolo noted that a survey was referenced but was not submitted with the Application and there is an issue as to the boundaries of this site and the accessway.

Mr. Petrongolo reviewed the issues in the Planning review about site suitability, noting that there are several bulk variances required in addition to Use variance relief, that the number of bulk variances required tends to disfavor a finding of site suitability. He also commented about his concerns for the existing R-2 zone which is directly adjacent to this site. Mr. McAndrew commented that some of the variances required are due to Pre-Existing and non-conforming conditions, and Mr. Miller suggested that the Board can reduce the impact of variances in the site plan. There was a discussion about the number of bulk variances sought which go against a finding of the site being suitable for the intended use. Mr. Petrongolo also had questions about whether the Applicant met the required burden of proof as to the positives versus the negatives, as to whether they are met for the zone as opposed to the general purposes cited by Mr. Miller.

The Board's professionals noted that no traffic studies were performed and that no traffic report was submitted for the site and that traffic circulation was a major concern.

Mr. D'Armiento asked about the location of a trash dumpster on the site. Mr. Nicholson responded that the location had not been designated, as that would occur during the site plan

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design. Mr. D'Armiento also noted that there is not a sufficient 25 ft. buffer or drive aisle for the site, so the Applicant could not have two-way traffic on the site. Mr. Nicholson responded that there could be 2-way circulation, but Mr. D'Armiento observed that there is not enough room on the left side of the site, that there is only 15.66 ft. of width, which is too narrow for two-way traffic and too narrow for many types of emergency vehicles.

The Board's professionals asked for an updated survey and for information showing where the trees which had been on the site had been removed. At the Applicant's request, the hearing on the Application was adjourned to the next meeting date, March 16, 2023. Thereafter, the Applicant requested additional adjournments and agreed to toll the time for the Board to act on the Application pending the next hearing.

*f. Public comment.*

Maureen DiMicco, 6 Mulberry Street, was sworn in and provided testimony before the Board indicating that she is a residential neighbor to the property, that she purchased her property many years ago, and has enjoyed the relative seclusion of the home which is in an area served by a natural buffer of trees and shrubbery which had existed. She testified that since the Applicant started to occupy the site, she has observed massive changes to the site occurring, even before the Board heard this Application. She stated she has observed that the Applicant has cut down trees and shrubs, that they have installed high-intensity lighting, and that there has been a great degree of increased activity on the site. She stated her opinion that the Applicant should be required to plant trees, erect a fence, and lower the amount of noise emanating from the working garage. She reiterated her concern, that to her dismay, trees were cut down, that she doesn't know how many trees and shrubs were cut down and removed but that the noise level from activity on the site has increased dramatically.

The meeting was then motioned to carry over until the next Zoning Board Meeting on March 16, 2023.

**Mrs. Parento made a motion to carry over until the next Zoning Board Meeting on March 16, 2023. Mrs. Custer seconded the motion. The results of the motion are as follows:**

The motion passed with a unanimous voice vote.

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**APPLICATIONS CONTINUED**

**C.**

Jakub & Anita Malesa  
4327 Bridgeboro Road  
Block 110, Lot 7  
ZN2022-13  
Bulk Variance

In December of 2022, the Applicants, Jakub and Anita Malesa, filed an Application with the Zoning Board seeking bulk variance relief as to the width of the subject lot in order to be permitted to construct a house on an undersized “flag” lot which is irregularly shaped, and sought such other relief as to non-conforming conditions on the subject property to be determined if applicable and/or as necessary.

A hearing on the Application was conducted at the January 19, 2023 Board meeting. At the January 19, 2023 hearing on the Application, the Applicants presented testimony in support of the Application and sworn testimony and comments were taken from the Fire Official who noted that he had concerns about emergency access to the property, that there needs to be a 25 ft. turning radius which does not appear to exist based upon the Applicants’ survey as to the proposed location of the structure.

Questions were raised concerning the site access in terms of the driveway apron width, which is not wide enough, and because the Applicants do not have a site plan designating where the apron would be located. The Application proposes for the property owner to gain access to the property from Bridgeboro Road, which is a County Road, such that any new access, including the placement and width of the driveway apron, would require an application for and approval by the Burlington County Planning Board.

Questions were raised concerning the drainage, the amount of impervious coverage, the need for a grading plan and to address storm water management.

Questions were raised during the public comment portion concerning the existing buffering along the proposed driveway and whether the Applicants had removed trees on the property without first obtaining a required tree removal permit from the Township and there was a comment that at the time of the hearing, there was still debris on the site, including tree stumps from the trees removed.

Mr. Malesa confirmed that he had removed trees from the site to clear the area and stated that the stumps and debris would be removed promptly.

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The Applicants acknowledged that a timely request to the adjacent property owners had not been made seeking to purchase a part of the neighbor's lot.

The Applicants' counsel sought to ask the owner to agree to sell an unspecified portion of the adjacent lot to the Applicants for an unspecified sum of money.

Also, a question was raised as to whether or not the property had previously been subdivided, and the Applicants acknowledged that a full title search had not been performed by the Applicants in advance of filing the Application.

During the hearing on the Application, the hearing was adjourned at the Applicants' request to the March 16, 2023 Zoning Board meeting.

The meeting was then motioned to carry over until the next Zoning Board Meeting on March 16, 2023.

**Mrs. Parento made a motion to carry over until the next Zoning Board Meeting on March 16, 2023. Mr. Aleszczyk seconded the motion. The results of the motion are as follows:**

The motion passed with a unanimous voice vote.

**D.**

69 Hartford Road, LLC  
65 & 69 Hartford Road  
Block 120, Lot 38 & 38.01  
ZN2021-05  
Use Variance

Joint Council asked the board to adjourn until the next Zoning Board Meeting on March 16, 2023. The meeting was then motioned to be adjourned until the next Zoning Board Meeting on March 16, 2023.

**Mrs. Parento made a motion to adjourn until the next Zoning Board Meeting on March 16, 2023. Mr. Weir seconded the motion. The results of the motion are as follows:**

The motion passed with a unanimous voice vote.

**OPEN/CLOSE TO THE PUBLIC**

Mr. Mormando opened this portion up to the public. Seeing no members of the public who wished to speak, Mr. Mormando closed this public portion of the meeting.



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**ADJOURNMENT**

**Mr. Moore made a motion to adjourn the meeting at 9:53 pm. Mr. Weir seconded the motion. The results of the motion are as follows:**

The motion passed with a unanimous voice vote.

Respectfully submitted,

Colleen Kohn,  
Planning & Zoning Board Secretary