

APPEAL NO. BOA#23-5996
LA PIERRE LLC
USE VARIANCE
SEEKING CHANGE OF USE
TO SUBDIVIDE INTO TWO
NEW LOTS 3.08 & 3.07
LOT 3.07 LOT FRONTAGE
0 FT ON RTE. 9 200FT
REQUIRED, LOT 3.08
FRONT YARD SETBACK
+- 2FT WHERE 35FT
REQUIRED ACCESSORY
STRUCTURE SETBACK
4.5FT TO TRASH
ENCLOSURE 10FT
REQUIRED
AND CONSTRUCT 24
24 APARTMENT UNITS
IN A NEW 3 STORY
APARTMENT BUILDING
IN THE HB/CN-B AND R-100
ZONE
BLOCK 1409 LOT 3.06
TALLWOOD WAY
BERKELEY

RESOLUTION OF THE MEMORIALIZATION OF THE BERKELEY
TOWNSHIP BOARD OF ADJUSTMENT **GRANTING A VARIANCE**
PURSUANT TO N.J.S.A. 40-55D-2 FOR BLOCK 1409 LOT 3.06

WHEREAS, an application has been made by La Pierre LLC, applicant/owner for the granting of a use variance and minor subdivision pursuant to N.J.S.A. 40:55D-70 for Block 1409, Lot 3.06, so as to permit the applicant to subdivide the existing lot into lots 3.07 & 3.08. lot 3.07 lot frontage 0ft on Route 9 200ft required, lot 3.08 front yard setback+- 2ft where 35ft required, accessory structure setback 4.5ft to trash enclosure 10ft required and construct a 3 story apartment building with 24 rental units in the HB / CN-B and R-100 Zone.

WHEREAS, the Berkeley Township Zoning Board of Adjustment has considered the application, has held a public hearing on the 10th day of April 2024, and has taken testimony and received the report of its professional staff, and has taken a revote due to an improper earlier vote the Zoning Board does hereby make the following findings of fact:

- A. The applicant has a proprietary interest in the property.
- B. The applicant has requested the granting of a use variance and minor subdivision approval in accordance with the Ordinances of the Township of Berkeley.
- C. The applicant's engineer Matthew Wilder PE/PP testified on behalf of the application.
- D. The applicant proposes to subdivide the existing lot into two new lots and to permit a three story 24 unit apartment rental building on one of the lots.
- E. The applicant was represented by Greg Hock Esq.
- F. The applicant and his witnesses testified that the current lot is split into two lots by Tallwoods Way.
- G. The applicant's engineer further testified that there was a need for apartments in Berkeley as all the rental units in Berkeley are currently occupied.
- H. The applicant's engineer testified that the lot was uniquely suited to multi family as single family homes would find the location and views undesirable.
- I. The applicant's engineer further testified that area currently consists of mixed uses: a post office, a rehab facility and private residences..
- J. The Board is satisfied that the purposes of the Municipal Land Use Law will not be advanced by the deviation from the ordinance and that the benefit of this deviation will substantially outweigh any benefit as an appropriate use, will promote the public health, safety, morals and general welfare, and will not provide for additional uses associated with the permitted commercial use.
- K. The Board is satisfied that the granting of the variances as recited above will not have a substantial detriment to the public good and will not substantially impair the intent and purpose of the Zoning Plan and Zoning Ordinance of the Township of Berkeley.
- L. At the conclusion of the testimony a motion was made and seconded to approve the granting of the Use Variance.
- M. Three of the Board Members who were present voted to deny the variance. As this was a use variance, an affirmative vote of 5 was necessary however, it was determined the 3d negative vote was ineligible as he was alternate #4 and there were only 2 regular members absent.
- N. As such it was determined that a re-vote was necessary and taken on May 8th 2024.
- O. At least 10 objectors spoke against the application they all focused on the increased traffic which would be generated in the zone and that the removal of the existing traffic barriers would cause speeding and a danger to children in the area,

NOW, THEREFORE, be it resolved by the Zoning Board of Adjustment of the Township of Berkeley, County of Ocean, State of New Jersey, that the Board does hereby grant the use variance and subdivision for: the permission of a 3 story 24 unit apartment

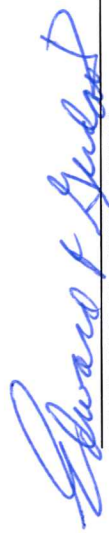
building in Block 1409 Lot 3.06, in the HB/CN-B and R-100 zone subject to the following conditions:

1. Payment of all outstanding professional fees of the Board and Township.
2. A copy of the Resolution of Approval shall be placed in the Township Construction File.
3. The units shall be age restricted to 48 and above.
4. The Applicant shall be responsible for the publishing of this approval in the Asbury Park Press or other newspaper designated for the publishing of legal notices by the Berkeley Zoning Board of Adjustment or Town Council.
5. Applicant shall comply with all terms in the Board Engineer's/Planner's letter of March 20, 2023 and February 26, 2024.
6. Applicant shall submit a preliminary and final site plan application within 1 year of the memorialization of this resolution or same shall become null and void.


The foregoing Resolution was duly passed and adopted by the Berkeley Township Zoning Board of Adjustment on the 8th day of May, 2024, by the following vote:

YES:	<u>7</u>
NO:	<u> </u>
ABSTAIN:	<u> </u>
DISQUALIFIED:	<u> </u>
ABSENT:	<u>2</u>

ATTEST:


EDWARD F. GUDAITIS
Secretary

BERKELEY TOWNSHIP ZONING
BOARD OF ADJUSTMENT


By: RICHARD W. ELLIOTT
Chairman