

**RESOLUTION
ZONING BOARD OF ADJUSTMENT
TOWNSHIP OF LIVINGSTON
NEW JERSEY**

Application #: 2017-67-UV
Decided: November 28, 2017
Memorialized: December 12, 2017

FINDINGS AND CONCLUSIONS

The Zoning Board of Adjustment of the Township of Livingston, having considered the Application and plans filed in this matter, and the testimony and evidence presented at the hearing on September 27, 2016, the following findings of fact and conclusions are made:

1. The Applicant is: Eastman Management Company DBA Camelot Associates.
2. The Property is commonly known as 70 South Orange Avenue, and is taxed as Block 6100, Lot 5. The property is in the R-L Zone.
3. The Applicant has satisfied the statutory procedural requirements of service and publication of notice, and there are no taxes or assessments due or in arrears.
4. The Applicant was represented by Stephen A. Geffner of Schenck Price Smith & King LLP.
5. The Applicant seeks approval for a fitness facility in an existing office building. Violation of the following Livingston Zoning Ordinance was noted:
 - a) Section 170-115A - The proposed use as a fitness center is not a permitted use in the R-L Zone.
6. The following persons testified at the hearing: The Applicant, by Peter Schofel; the Applicant's planner, Richard Keller of Casey and Keller, and Nicki Gnozzio, the operator of the proposed fitness facility.

The first witness, Peter Schofel, a principal in the applicant, testified that due to substantial market competition for all types of office tenants that amenities to attract tenants have become an important part of keeping the office building a viable economic venture. Further, in addition to cafes, childcare facilities, personal training and fitness facilities were high on the list of tenants of the property that the applicant had surveyed. Mr. Schofel said that this kind of health and fitness facility would enhance the building and due to its policies would not take much room or require more parking than an office use. Mr. Schofel stated that the facility would be similar to facilities at two other buildings in Livingston owned by the Applicant. Those facilities have been successfully operating without any problems.

Richard Keller was the next witness for the applicant. Mr. Keller was recognized as a professional engineer and planner by the Board. He said that the proposed use has become an essential amenity in office buildings and that this building was particularly suited due to the size of the building, large parking area and the fact that the site is on a major road, South Orange Avenue. He said the “special reasons” required by the Medici case were that this would benefit the health and wellbeing of the tenants and public which was one of the general purposes of the land use laws. He opined that there was adequate parking.

Nicki Gnozzio, a principal of Living Fitness, then testified for the applicant. She described its operations. The facility will be in operation from 5:30 A.M. to 7:00 P.M daily. The amount of space allocated to the facility will be approximately 1500 square feet. Personal training sessions will be offered by personal trainers who usually work a 50-minute training session. Clients arrive a few minutes prior to the session to warm up on a treadmill and then either leave directly after the session or shower in the on-site facilities. The operation is not like a health club that has many members who can appear to work out without an appointment. No client can come and use the equipment or training facilities without an appointment for a training session and there can only be four appointments working at a time.

7. The following persons objected to or expressed interest the application at the hearing: None.

8. The Applicant has satisfied the statutory requirements of N.J.S.A. 40:55D-70(d)(1) for the relief sought by demonstrating that the purposes of the Municipal Land Use Law (MLUL) would be advanced by the proposed use, and the benefits of the variance substantially outweigh any detriment. The Board found that there will be no substantial detriment resulting to the public good, nor will there be an impairment of the zoning plan or municipal zoning ordinance.

9. Now, therefore, be it **RESOLVED** by the Zoning Board of Adjustment of the Township of Livingston that, the application herein submitted is granted the following variances from the Ordinance:

- a) A use variance is hereby being granted for a personal training use open to the tenants of the building and the public subject to the terms and conditions set forth herein and as are reasonably consistent with the plans submitted and as testified to at the hearings before the Board.

This approval is subject to all other requirements of the Township ordinances, building code, and the right of appeal by any interested party.

This Resolution is a memorialization of the action of the Board of Adjustment of the Township of Livingston taken on November 28, 2017 in which Board voted seven in favor and none opposed to approve the application.

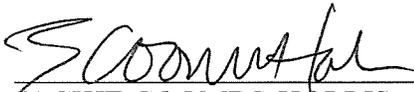
CHAIRMAN:



JAMES HOCHBERG

I hereby certify this to be a true and accurate copy of the Resolution adopted by the Zoning Board of Adjustment of the Township of Livingston on December 12, 2017 by the affirmative votes of Mr. Hochberg, Mr. Bier, Ms. Tabak-Fass, Ms. Hwang; Mr. Dunec, Mr. Vieira and Mr. Nardone, the above constituting all the Members present and eligible to vote.

PLANNING ADMINISTRATOR:



JACKIE COOMBS-HOLLIS

Prepared by: Alan Ozarow, Esq.