

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

Case # 2014-12-V

Motion by: Mr. James Hochberg

Second by: Mr. Anthony Nardone

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 hearings on March 25, 2014, the following findings of fact and conclusions are made:

1. The applicant is Bulletproof Productions, LLC d/b/a Bulletproof Haunts, LLC.
2. The property is the building at the rear of 630 Route 10 and is taxed as Block 100 Lot 3. The property is in the C-I Zone.
3. The applicant is represented by Susan Rubright, Esq. of the firm of Brach Eichler LL..C.
4. The applicant has satisfied the statutory procedural requirements of service and publication of notice, and there are no taxes or assessments due or arrearages.
5. The applicant requires a use variance for seasonal haunted house usage which is not permitted in this Zone pursuant to 170-118A. No site plan approval or amendment is requested as all activities will be within an existing building except for the addition of some handicapped parking spaces closest to the building in question.
6. The applicant presented its first witness, Jennifer Condron, the owner of the applicant and familiar with the proposed activities at the property. She testified that there are over 300 parking spaces available and no more than 200 parking spaces would be required at any one time. The applicant had used Livingston Mall for its venue previously for a pre-Halloween haunted house display and wished to move to the 630 Route 10 location where this use was not specifically provided for in the Ordinance and therefore not permitted. She further testified that the haunted house would be open about 21 days in October and then she was considering being open for some additional holidays such as Valentine's Day, Christmas and St. Patrick's Day. The hours most days would be 7 PM to midnight, but on Sunday they may begin earlier and end earlier. She would have about 40 employees including her own security group to keep the behavior of the patrons appropriate for a family oriented event. Most personnel would be in costume to "scare" the patrons, to take admissions and sell souvenirs. She estimated that the haunted house would have a maximum of 300 patrons per hour and the portion of the building the haunted house would be in was 39,500 square feet. She emphasized that most patrons arrive in

family or friend groups so the 300 parking spaces would be more than adequate based on her experience at Livingston Mall.

7. Pamela Lynch, Esq., in house counsel to Franklin Miller, a business on the east side of the street from the proposed haunted house asked the witness questions about security, parking and safety. Based on the questions, the applicant agreed that there would be no outside activities including no selling or distribution of food or drink to patrons waiting to enter the building. Also, conditions relating to security were discussed by the Board to satisfy the concerns of Ms. Lynch's client.

8. Michael Lanzafama, PE and PP, was the next witness for the applicant. Mr. Lanzafama was recognized as a professional engineer and planner by the Board. He marked two exhibits, A-1, an aerial photograph of the vicinity of the property and A-2 a satellite picture of the vicinity of the property and then testified about the area. He characterized the proposed use in the area which contains Berliss Bearing, retail stores, auto dealers and other commercial uses as appropriate as the proposed use is an entertainment use. He noted that the site is particularly suited due to the large parking area and the fact that the site is very remote from any residential uses as none are on the same side of Route 10 from the circle to the East Hanover border to the west. He analyzed the parking and noted that the proposed parking facilities were adequate for the proposed use and within the ordinance requirements. He noted that the use has successfully and without any incident been at the Livingston Mall in the past.

Conclusions of the Board

A. The Board concluded that the Applicant has satisfied the statutory requirements of N.J.S.A. 40:55D-70(d)(1) for the relief sought, the premises are particularly suited due to the location and parking available, and the lack of any residential properties nearby thereby demonstrating that the benefits of the proposed use far outweigh any detriments which might be caused by the granting of the variance.

B. The Board accepted the testimony of the Applicant's witness and expert and concluded that applicant met the standards for a Medici use variance provided that the conditions imposed below are complied with.

C. The Board found very few detriments to the application and the use was compatible with permitted uses in the zone, but so particular that it was not called out in the Ordinance.

Based upon the above findings, there will be no detriment resulting to the public good, nor will there be an impairment of the zoning plan or municipal zoning ordinance.

Now, therefore, be it **RESOLVED** for the reasons set forth above and on the record of testimony, by the members of the **ZONING BOARD OF ADJUSTMENT** of the Township of Livingston, that the use variance is hereby granted for a seasonal haunted house use 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.

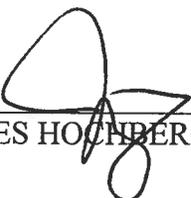
The Board imposed the following conditions:

- (i) All signs will be conforming to the Ordinance;
- (ii) All activities will be inside the building and none will be outside;
- (iii) Applicant will provide evidence to the Township Engineer that the Widger Chevrolet parking lease has been terminated or relocated as testified to by the applicant and that the applicant has 300 spaces to meet peak demand;
- (iv) Applicant shall submit a parking analysis and lighting analysis approved by the Township Engineer. The parking analysis shall show the proposed handicapped spaces adjacent to the entrance;
- (v) Applicant shall submit a security plan to the Police Chief for his approval and should such security plan after approval prove inadequate in the view of the Police Chief, the Applicant will comply with additional requirements that the Livingston Police Chief may require from time to time;
- (vi) The Applicant acknowledges that amended site plan approval is not hereby granted and should the Township Engineer determine that the proposed changes require the Applicant shall apply for amended site plan approval; and
- (vii) The Board retains jurisdiction for any subsequent signage, site plan or other variances related the premises to be used with the use variance hereby granted.

This approval is subject to all other requirements of the Township ordinances, building code, and the right of appeal by any interested party. Also, as required by Livingston Ordinance 170-27(A), the use must be commenced within one year of the date hereof or the variance shall expire.

The Resolution is a memorialization of the action of the Board of Adjustment of the Township of Livingston taken on March 25 2012, in which Board unanimously voted six in favor and none opposed to approve the application in accordance with and subject to the conditions and terms set forth herein on the record.

CHAIRMAN:



JAMES HOCHBERG

Dated: April 29, 2014

Prepared by: Herbert S. Ford, Esq.