

METUCHEN BOROUGH ZONING BOARD OF ADJUSTMENT

**RESOLUTION OF MEMORIALIZATION GRANTING
TEMPORARY USE VARIANCES AND WAIVERS TO
METUCHEN BOARD OF EDUCATION
BLOCK 118, LOTS 29, 30 31 AND 32
APPLICATION NO. 98-419**

WHEREAS, the Metuchen Board of Education, hereinafter referred to as "the Applicant", is the leasehold tenant of Block 118, Lots 29, 30, 31 and 32, as shown on the official Tax Map of the Borough of Metuchen, said property being more commonly known as 442 Main Street in the Borough of Metuchen, County of Middlesex and the State of New Jersey; and

WHEREAS, the Applicant has filed an application for a use variance to extend a temporary office use beyond the one period set forth in the Metuchen Land Development Ordinance Section 110-112 as well as a waiver of site plan submittal and application fees; and

WHEREAS, the Metuchen Borough Zoning Board of Adjustment held a public hearing on said application on June 11, 1998, after compliance with the notice and publication requirements of N.J.S.A. 40:55D-12; and

WHEREAS, the Applicant was represented by James P. Smith, Esq., who appeared on behalf of the Applicant and presented the sworn testimony of William Kyle, the Board of Education Facilities Manager; and

WHEREAS, no objectors appeared in opposition to the application; and

WHEREAS, the Metuchen Borough Zoning Board of Adjustment, after hearing the testimony in support of the application, has made the following findings of fact and has drawn the following conclusions of law:

1. The Applicant is the leasehold tenant of Block 118, Lots 29, 30, 31 and 32 as shown on the official Tax Map of the Borough of Metuchen, said property being more commonly known as 442 Main Street in the Borough of Metuchen, County of Middlesex and State of New Jersey. The owner of the property, Main Street Metuchen, L.T.D., has authorized the Applicant to make an application for development.

2. The property fronts on Main Street and is in the B-1 Central Business district.

3. The Applicant requests a "temporary" use variance for the location of school board offices at the site. The property has been used for these purposes for approximately one year. Previously, the property was occupied by bank offices.

4. The Applicant is seeking to build new offices and the proposed use will only be temporary. The construction of the new building has not been bid, but the Applicant has represented that it hopes to be out of this location within a year and a half.

5. The Applicant also testified that there is a lack of available land or property which it may use for temporary offices at this time. It indicated that there are no feasible alternatives to the continued use of the site.

6. The Applicant testified that the proposed use will merely be a continuation of the temporary office use as it now exists. The Applicant further represented that it will make no structural changes to the buildings or the site. It is feasible for the site to return to its previous use upon their vacation of it.

7. The Applicant requested site plan waivers and indicated that it has no intention of changing any structural or physical features of the site. It further represented that the Township has a site plan on file from one year ago when the owner of the property obtained approval for the Applicant to occupy the site for an office. The site has not been altered since the approval.

8. The Applicant also requests a waiver of any application fee and/or escrow requirements as it is an application made by one Metuchen municipal body to another.

9. The Board finds that special reasons exist for the granting of the variance and waivers. The Applicant has shown a lack of available land and properties for its use as office buildings. Specifically, the Applicant has no reasonable alternative to the continued occupation and use of the site.

10. The Board further finds that the use of the site for educational offices enhances education in the Borough and is a beneficial use. Moreover, it would be inordinately expensive if not impossible to locate this public use anywhere else in the borough on a temporary basis.

11. The Board further finds that the temporary use of the site as school board offices will not be substantially detrimental

to the public good nor impair the intent and purpose of the Borough's Master Plan. The Borough's land use ordinance recognizes temporary office occupancy in the B-1 Central Business District and the Board finds the unique circumstances of this case justify the extension of the temporary use.

12. The Board finds that a waiver of site plan submittal is justified based upon the Applicant's representations that no structural changes will occur at the site and a site plan is on file from a last year's application which shows the layout of the site. Lastly, the Board finds a waiver of application fees is justified based upon the application being made by another Metuchen municipal body.

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of the Borough of Metuchen that the application of the Metuchen Board of Education for a use variance to extend the temporary office use of the site and for additional waivers be and is hereby granted subject to and conditioned upon the following:

A. Publication by the Applicant of a notice of this decision in an official newspaper of the Borough of Metuchen and return of proof of said publication to the Secretary of the Zoning Board.

B. The Applicant furnishing proof to the Secretary of the Board of Adjustment that no taxes, escrows or assessments for local improvements are due or delinquent on the property in question. No permits, if any, shall be issued until all taxes and escrows are paid in full.

C. The temporary office use shall be limited to a maximum of two years from June 11, 1998. After that time, if the Applicant wishes to continue the use, it will be required to make and additional application.

BE IT FURTHER RESOLVED that the Applicant understands and acknowledges that all of the conditions contained in this resolution and the record of proceedings in this matter including any agreements made or plans submitted by the Applicant were essential to the Board's decision to grant the approval set forth herein. Breach of any such conditions or the failure of the Applicant to adhere to the terms of any agreement within the time required shall result in automatic revocation of the within approval and shall terminate the right of the Applicants to obtain any further permits or any other governmental authorizations necessary in order to effectuate the purpose of this resolution.

BE IT FURTHER RESOLVED that if any of the above-stated conditions are found to be illegal by a court of competent jurisdiction or conditions similar to the above are deemed to be illegal by a court of competent jurisdiction or any action of the Legislature, then in that event, the approval rendered in this resolution shall be deemed null and void based upon these changed circumstances.

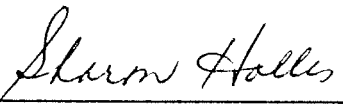
BE IT FURTHER RESOLVED that nothing herein shall be interpreted to excuse compliance by the Applicant with any and all other requirements of this municipality or any other governmental subdivisions as set forth in any laws, ordinances or regulations.

BE IT FURTHER RESOLVED that this resolution shall serve as one of memorialization of the action taken by this Board at its meeting of June 11, 1998 and effective as of that date.

BE IT FURTHER RESOLVED that a copy of this Resolution, certified by the Secretary of the Zoning Board of Adjustment to be a true copy, be forwarded to the Zoning Officer, the Borough Clerk, Borough Construction Official and to the Applicant herein within ten (10) days of the date hereof.

BE IT FURTHER RESOLVED that the Chairman and Secretary be and are hereby authorized to sign any and all documents necessary to effectuate the purpose of this resolution, provided the Applicants have complied with the above-stated conditions.

Dated: July 9, 1998



Sharon Hollis, Secretary