

DATE OF DECISION: 8/24/23

DATE OF MAILING: 8/24/23

**BEFORE THE PLUMSTEAD TOWNSHIP  
ZONING HEARING BOARD**

**RE: APPLICATION OF JJ INVESTMENTS, LLC FOR A SPECIAL EXCEPTION,  
FOR THE PROPERTY LOCATED AT 4095 FERRY ROAD, DOYLESTOWN,  
PLUMSTEAD TOWNSHIP, BUCKS COUNTY, PENNSYLVANIA, FURTHER  
IDENTIFIED AS TAX MAP PARCEL NO. 34-011-033 AND 34-011-034**

**FINDINGS OF FACT**

1. On July 19, 2023, at 7:00 p.m. at the Plumstead Township Building, 5186 Stump Road, Pipersville, Pennsylvania, the Plumstead Township Zoning Hearing Board (“Board”) held a duly noticed hearing on the application of JJ Investments, LLC (the “Applicant”).

2. The property that is the subject of this application is located at 4095 Ferry Road, Doylestown, Plumstead Township, and is also known as Bucks County Tax Map Parcel Numbers 34-011-033 and 34-011-034 (the “Property”). The Property has frontage on both Ferry and Easton Roads.

3. Notice of the July 19, 2023 hearing was published in advance of the hearing in the June 28, 2023 and July 5, 2023 editions of The Intelligencer, a newspaper publication of general circulation in Plumstead Township.

4. Notice of the hearing was sent by first class mail to property owners of record within 1,000 feet of the Property on June 23, 2023 by Steve Hicks, Plumstead Township Land Use and Planning Administrator.

5. Notice of the hearing was posted on the Property on July 6, 2023 by Steve Hicks, Plumstead Township Land Use and Planning Administrator.

6. JJ Investments, LLC is the current owner of the Property as evidenced by a Deed recorded at the Bucks County Recorder of Deeds Office at Instrument Number 2021041517. The Applicant purchased the Property on April 13, 2021.

7. The Applicant, as owner of the Property, has the requisite standing to pursue this zoning hearing board application.

8. The Property contains approximately 10.1 acres and is located in the Township’s C1 – Neighborhood Commercial Zoning District.

9. The surrounding neighborhood contains both residential and commercial properties.

10. The Property is currently improved with a two-story building containing 27,000 square feet of floor area that is used as an F-3 Office Use. The F-3 Office Use is a permitted use within the C1 zoning district. The Property also contains a one-story multi-tenant warehouse building containing 22,200 square feet of floor area. The Applicant currently conducts an H-4 Contracting Use within the one-story warehouse building. The H-4 Contracting Use is a lawful preexisting nonconforming use. In addition, the Property contains 122 off-street parking spaces.

11. The Applicant is seeking a special exception pursuant to Section 27-2704.2 of the Plumstead Township Zoning Ordinance to allow for expansion of a nonconforming H-4 Contracting use. The Applicant proposes to construct an 11,100 square foot pole barn on the property which will constitute a 50% expansion of the floor area of the nonconforming use.

12. The Applicants were represented by Nathaniel Fox, Esquire of Obermayer Rebmann Maxwell & Hippel, LLP at the Zoning Hearing Board hearing.

13. The following individuals requested and were granted party status at the hearing:

- a. Jane Thundercliffe of 3951 Ferry Road, Doylestown, PA 18902.
- b. Lisa Hoy of 4905 Gayman Road, Doylestown, PA 18902.
- c. Christina Szabo of 3984 Ferry Road, Doylestown, PA 18902.
- d. Richard Nunn of 3995 Ferry Road, Doylestown, PA 18902.

14. Introduced as exhibits at the zoning hearing are the documents identified on Schedule A attached to this decision. Schedule A is incorporated by reference as though fully set forth herein at length.

15. James T. Johnson is the owner of JJ Investments, LLC.

16. Mr. Johnson has spent approximately \$500,000 to improve the Property since he purchased it two years ago. He has installed a new fence to provide additional buffering and has painted exterior buildings and structures to improve the aesthetics of the Property.

17. He and his wife, Tammy Johnson, own Tamco Demo. Tamco Demo will be the sole occupant of the proposed building.

18. The purpose of the new building is to provide interior storage for items that are currently being stored outside. The purpose of relocating the materials and equipment inside is for protection of the materials and equipment.

19. The proposal will result in the removal of approximately 40,000 square feet of space currently devoted to outside storage. Some of the area where outside storage is currently occurring will be replanted in grass.

20. Approximately 10,000 square feet of the items currently stored outside will be relocated inside the proposed building.

21. The Applicant installed a fence on a bermed area of the Property adjacent to Ferry Road. This fence provides some buffering for passing motorists.

22. The new building will provide additional buffer with respect to items that are still stored outside on the Property.

23. The Applicant is proposing a maximum of five (5) garage doors for the new building. The garage doors will be installed on the north side of the building and therefore will not be visible from Ferry Road. The building complies with the height requirement contained in the zoning ordinance.

24. There will be no lighting on the south side of the proposed building or the west side of the building. There will be no door on the west side of the building.

25. There will be no water or sewer connections for the new building, as the building will only be used to store equipment, such as trucks, machines, attachments for vehicles and buckets.

26. The current parking area on the Property is gravel and will remain as gravel. The Applicant is proposing an additional 22 parking spaces pursuant to the zoning ordinance requirements related to the new building.

27. All new lights installed on the building will be screened and shielded in a manner to prevent light from emanating off the Property limits.

28. Mr. Johnson advised that the H-4 Contracting use has existed at the Property for more than 30 years.

29. Residents who attained party status asked questions, presented evidence and expressed concerns related to the operational aspects of the uses on the Property. Other residents provided public comment concerning operational aspects of the uses on the Property.

30. The Applicant advised that he will not be changing the operational aspects of the uses. No new or additional tenants are proposed for the Property.

31. There will be no additional traffic or additional employees at the Property.

32. There will be no additional impacts as a result of construction of the proposed building.

33. The Applicant is not increasing the impervious surface percentage in existence at the Property. In fact, there will be a net decrease of impervious surface due to the removal of existing storage areas and planting of grass.

34. Scott Mills testified on behalf of the Applicant. Mr. Mills is a registered landscape architect. Mr. Mills was qualified as an expert in the area of landscape design.

35. Mr. Mills is proposing installation of a Class E buffer, which is the most significant type of buffer contained in Plumstead Township's Zoning Ordinance, along the property line between the Property and the residential properties adjoining the Property.

36. In addition, a thirty-five (35) foot buffer will be installed along the Ferry Road side of the Property.

37. Mr. Mills provided the opinion that there will be an overall reduction in the intensity of the use of the Property.

38. Mr. Mills reviewed historical images of the Property and testified that sometime between 1972 and 1982 trailers and equipment began being stored at the Property.

39. The Applicant agreed to comply with all conditions set forth in Exhibit ZHB-1A which are conditions requested by the Board of Supervisors.

40. As there will be no new adverse impacts associated with the proposed building, the proposal is suitable for the Property and in compliance with the zoning ordinance.

41. The Applicant also agreed to consolidate the two parcels that comprise the Property by recording a Deed of Consolidation at the Bucks County Recorder of Deeds Office.

### **CONCLUSIONS OF LAW**

1. Required public notice of the hearing was made by sufficient publication, posting and mailing to affected property owners.

2. To establish entitlement to receive a Special Exception, an Applicant must prove that the proposal is compliant with the following:

- a. In accordance with the Township Comprehensive Plan and consistent with the spirit, purpose and intent of this Chapter.
- b. In the best interest of the Township and the public welfare.
- c. Suitable for the property in question and designed, constructed, operated and maintained so as to be in harmony with and appropriate in appearance to the existing or intended character of the general vicinity.
- d. In conformance with all other applicable requirements of this Chapter and other Township ordinances.

- e. Suitable in terms of effects on highway traffic and safety with adequate access arrangements to protect streets from undue congestion and hazard.
- f. In accordance with sound standards of subdivision and land development practice where applicable.
- g. Suitable in terms of impact on surrounding residential properties and compatible with adjacent uses.

3. In addition, the Applicant must show:

- a. The ability and capacity of the existing public water system to provide a sufficient quality and quantity of water for the proposed use without system extensions beyond those which the applicant will provide. If on-site water supply is proposed, the applicant shall provide information on the proposed water supply and how water quality and water availability in the surrounding area will be protected.
- b. The ability and capacity of public sanitary sewers to dispose of the wastes from the proposed use without system extensions beyond those which the applicant will provide. If on-site wastewater disposal is proposed, the applicant shall provide information on the type of system to be used and provide information on the consistency of the proposed wastewater disposal system with the Township's Sewage Facilities Plan.
- c. The ability and capacity of stormwater management facilities to handle increased runoff in a manner that will meet Township objectives of maximizing groundwater recharge, maintaining water quality, and avoiding all adverse off-site effects on properties and streams.
- d. The ability and capacity of existing street systems to provide for the needs of the proposed use without substantially altering existing traffic patterns or overloading the existing street system.

4. Provided the Applicant complies with the reasonable conditions attached to the relief granted herein, the Applicant has met the Zoning Ordinance and Pennsylvania law requirements for a special exception related to the construction of the new building and corresponding expansion of the H-4 Contracting Use.

5. Provided the Applicant complies with the reasonable conditions attached to the relief granted herein, the Board finds that the proposal is in the best interest of the Township and the public welfare.

6. Provided the Applicant complies with the reasonable conditions attached to the relief granted herein, the Board finds that the proposal is suitable for the property in question and designed, constructed, operated and maintained so as to be in harmony with and appropriate in appearance to the existing or intended character of the general vicinity.

7. Provided the Applicant complies with the reasonable conditions attached to the relief granted herein, the Board finds that the proposal is in conformance with all other applicable requirements of this Chapter and other Township ordinances.

8. Provided the Applicant complies with the reasonable conditions attached to the relief granted herein, the Board finds that the proposal is suitable in terms of effects on highway traffic and safety with adequate access arrangements to protect streets from undue congestion and hazard.

9. Provided the Applicant complies with the reasonable conditions attached to the relief granted herein, the Board finds that the proposal is in accordance with sound standards of subdivision and land development practice where applicable.

10. Provided the Applicant complies with the reasonable conditions attached to the relief granted herein, the Board finds that the proposal is suitable in terms of impact on surrounding residential properties and compatible with adjacent uses.

11. The Board finds that the proposal does not impact the public water or the public sewer systems and as a result the Applicant has established that no additional capacity of either system is necessary.

12. The proposal will result in a decrease in stormwater runoff due to the decrease in the overall percentage of impervious surface on the Property and therefore the Applicant established that stormwater will be appropriately managed.

13. The proposal will not increase traffic or modify traffic patterns.

### DECISION

AND NOW, this 24<sup>th</sup> day of August, 2023, upon consideration of the foregoing Findings of Fact and Conclusions of Law, the Plumstead Township Zoning Hearing Board hereby **GRANTS** the Applicants' request for a special exception pursuant to Section 27-2704.2 of the Plumstead Township Zoning Ordinance to allow for expansion of a nonconforming H-4 Contracting use to permit the Applicant to construct an 11,100 square foot pole barn on the property which will constitute a 50% expansion of the floor area of the nonconforming use, conditioned upon compliance with the following:

1. The modifications to the Property shall result in a net reduction in the square footage of any outside storage area on the subject property, such that approximately 40,000 square feet of outside storage will be removed from the Property or stored within the proposed building.
2. The proposed building shall be used only as an accessory storage structure for the existing principal contracting use.
3. The Applicant shall not expand the number of tenancies on the Property following construction of the proposed building.
4. The proposed building shall be used for storage only and not any other processes or activities related to the uses on the Property.
5. The Applicant shall obtain a use and occupancy permit for any changes in use and/or users of the existing spaces.
6. The Applicant shall submit a land development application, without prejudice to request waivers as may be determined or recommended by the Township Engineer.
7. The Applicant shall comply with the testimony and exhibits introduced by the Applicant at the zoning hearing board hearing.
8. The Applicant shall prepare and record a Deed of Consolidation to consolidate the two parcels (Tax Map Parcel Nos. 34-11-033 and 34-11-034) involved in this zoning hearing board application. Prior to recording the Deed of Consolidation, the Deed shall be provided to the Township Solicitor for his/her review and approval. The Deed of Consolidation shall be recorded at the Bucks County Recorder of Deeds Office following the Solicitor's review and approval.

This decision does not waive any requirements of any other applicable Plumstead Township Ordinance(s).

PLUMSTEAD TOWNSHIP  
ZONING HEARING BOARD

DATE: 08/24/23

/s/ David Bleam  
David Bleam, Chairman

DATE: 08/24/23

/s/ Lawrence Weintraub  
Lawrence Weintraub, Member

DATE: 08/24/23

/s/ Julie Anne Mejia  
Julie Anne Mejia, Alternate

Scott A. MacNair, Esquire  
Clemons Richter & Reiss, P. C.  
Solicitor, Plumstead Township Zoning Hearing Board  
2003 S. Easton Road, Ste. 300  
Doylestown, Pennsylvania 18901  
215.348.1776

**Note to Applicant:** This Decision is NOT an authorization to build. Zoning and building permits must be obtained from Plumstead Township prior to the commencement of any construction. Pursuant to §27-2911, a special exception or variance shall expire if the applicant fails to obtain a building permit within one year of the date of the order of the Board granting such special exception or variance.



## SCHEDULE A – TABLE OF EXHIBITS

<b>Exhibit</b>	<b>Description</b>
ZHB-1	Zoning Hearing Board application received by the Township on May 12, 2023
ZHB -1A	Letter dated June 15, 2023 from William Oettinger, Esquire, Plumstead Township Solicitor concerning the Plumstead Township Board of Supervisor’s position concerning the application
ZHB-2	Proof of Publication and Public Notice
ZHB-3	Letter dated June 21, 2023, to the Applicant’s attorney advising of the scheduled hearing date
ZHB-4	Certification of mailing to property owners – notice mailed on June 23, 2023, with a list of property owners receiving said notice
ZHB-5	Certification of posting public notice at the property on July 6, 2023
ZHB-6	Letter from Kellie McGowan, Esq. regarding the Applicant’s agreement to waive the initial 60 day hearing requirement
A-1	Sample Building Rendering – Van Cleef dated July 18, 2023
A-2	Outside Storage Comparison Plan – Van Cleef dated July 18, 2023
Hoy-1	Letter dated March 30, 2005 from Pennsylvania DEP to Michael Tulio regarding removal of underground storage tank
Hoy-2	Email from Michael Clayton, Central Bucks School District Environmental Coordinator to Lisa Hoy
Nunn-1	Packet of Photographs (Approximately 50 photos) of the Property
Thundercliffe -1	Photos of the Property