

**RESOLUTION OF FINDINGS AND CONCLUSIONS
PLANNING BOARD OF THE
BOROUGH OF WOODBURY HEIGHTS
2017-13**

WHEREAS Stanley M. Freund has applied to the Planning Board of the Borough of Woodbury Heights seeking an interpretation that a Massage Therapy Salon is a permitted use in the HC zone; and

WHEREAS, the property in question is located on Woodbury-Glassboro Road, Block 112, Lot 2 in an HC zone; and

WHEREAS, the Borough of Woodbury Heights Planning Board has the right to exercise to the same extent and subject to the same restrictions, all the powers of the Zoning Board of Adjustment; and

WHEREAS, the Borough of Woodbury Heights Planning Board has had an opportunity to review the application for Stanley M. Freund seeking an interpretation that a massage therapy salon is a permitted use in the HC zone and a hearing having been held thereon; and

WHEREAS, the Borough of Woodbury Heights Planning Board has made the following factual findings:

1. Dale T. Taylor, Esquire appeared on behalf of the applicant. The applicant and his wife Yuan Yuan Deng, who is a licensed Massage Therapist, are owners of the property consisting of 3 stories with an office on the first floor and apartments on the second and third floor. It is the intent of the parties to open a Massage Therapy Salon on the first floor, reside on the third floor and maintain the second floor apartment which may be occupied by Ms. Deng's daughter. The property is in the HC zoning district which does not specifically list a Massage Therapy Salon as a permitted use. However, the Board determined that the proposed use fits into the category of retail sales of goods and services, specifically as a retail service and that the use is compatible with permitted uses in the zone. The applicant indicated that the Massage Therapy Salon will be open from 10:00 A.M. until 9:00 P.M. seven days per week with a maximum of two therapists on site.

2. As part of the application review process it was discovered that the property was recently significantly renovated, increasing the residential part of the use. This constitutes the

expansion of a pre-existing non-conforming use requiring a "D" variance. However, the applicant was granted permission by the Zoning Officer to proceed with the project and was issued the necessary building permits to complete the project. Assuming that to be true, the Board determined that it would not be equitable to require the applicant to apply for a variance to permit the expansion of a pre-existing non-conforming use which had already occurred with approval of the Zoning Official. However, the Board carefully considered the review letter of June 2, 2017 prepared by the Board's Professional Planner Tiffany A. CuvIELLO, P.P. and Borough Ordinance Section 70-44 requiring site plan approval for any change in use or occupancy of a non-residential property. The applicant will therefore be required to provide the information requested in Ms. CuvIELLO's letter in order to determine what variances, if any, may be necessary as part of the applicant's application for site plan review and approval or site plan waiver.

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Woodbury Heights that the application of Stanley M. Freund seeking an interpretation that a Massage Therapy Salon is a permitted use in the HC zone is hereby granted subject to the following conditions:

1. The applicant shall obtain any other applicable governmental approval which the applicant is required to obtain from any Federal, State, County or Local Governmental Agency or body.

2. No Certificate of Occupancy shall be issued and the applicant shall not begin operation of the Massage Therapy Salon until he makes application for and receives site plan approval or waiver of site plan approval along with whatever variances and/or waivers may be necessary.

3. In order to determine what variances and/or waivers may be necessary the applicant shall (prior to making application) provide all of the information requested in the review letter of June 2, 2017 prepared by Tiffany A. CuvIELLO P.P., the Board's Professional Planner. The applicant shall provide any other information requested by the Board's Professional Planner or Professional Engineer in order for them to determine what variances and/or waivers may be necessary.

4. Assuming the representations made regarding approval by Zoning and Construction Officials for renovation of the building are correct, a variance for expansion of a pre-existing non-conforming use shall not be required.

Adopted at a regular meeting of the Borough of Woodbury Heights Planning Board on June 19, 2017.

PLANNING BOARD OF THE BOROUGH
OF WOODBURY HEIGHTS



BRUCE FARRELL, CHAIRMAN

ATTEST:



SHANNON ELTON, SECRETARY

CERTIFICATION

The foregoing resolution was duly adopted by the Planning/Zoning Board of the Borough of Woodbury Heights at the special meeting of said Board on June 19, 2016.



SHANNON ELTON, SECRETARY
PLANNING/ZONING BOARD