



**CITY OF DETROIT
BOARD OF ZONING APPEALS
DECISION AND ORDER**

IN RE APPEAL BY BZA PETITIONER:

BZA CASE NO.: 1-23

LOCATION: 4445 LAWTON, between W. Hancock and Buchanan in a M4 zone (Intensive Industrial District). City Council District #1

PETITIONER: CAN-AM INTERNATIONAL TRADE CROSSING, LLC
6632 TELEGRAPH #350
BLOOMFIELD HILLS, MI. 48301

REPRESENTATIVE: KRISTIN LUSN
1312 JOILET PLACE
DETROIT, MI. 48207

LEGAL DESCRIPTION: Available upon request

PETITION: Can-Am International Trade Crossing, LLC appeals the decision of the Buildings Safety and Engineering and Environmental Department (BSEED SLU2022-00131 Decision Date: December 20, 2022, Effective Date: January 3, 2023) which DENIED the establishment of a very high-impact manufacturing or processing facility (crushing, grading, and screening of rock, stone, slag, clay, or concrete) on a 4.7-acre vacant site in a M4 (Intensive Industrial District).

FACTS AND PROCEDURAL POSTURE OF APPEAL:

The Board of Zoning Appeals shall hear and decide appeals from and review any order, requirement, decision, or determination that is made by an administrative official in the administration of this Zoning Ordinance, or any decision made by the Buildings and Safety Engineering Department involving Conditional Uses, Regulated Uses, or Controlled Uses, or any denial of a site plan by the Planning and Development Department.

PETITIONER'S REQUESTED ACTIONS:

Can-Am International Trade Crossing, LLC appeals the decision of the Buildings Safety and Engineering and Environmental Department (BSEED SLU2022-00131 Decision Date: December 20, 2022, Effective Date: January 3, 2023) which DENIED the establishment of a very high-impact manufacturing or processing facility (crushing, grading, and screening of rock, stone, slag, clay, or concrete) on a 4.7-acre vacant site in a M4 (Intensive Industrial District).

PETITIONER'S STANDING TO BRING APPEAL:

The Law Department had determined that the petitioner has standing to bring this case before the Board.

BZA'S AUTHORITY TO CONSIDER PETITIONER'S APPEAL:

The BZA has authority to consider the Petitioner's appeal based on 50-4-101 Jurisdiction over Appeals of Administrative Decisions and Sec. 50-3-281 General approval criteria

PUBLIC NOTICE AND HEARING:

On July 1, 2023, 12 notices of the Board's public hearing were distributed via certified mail to (1) all persons whose names and mailing addresses appeared in the current assessment roll as owners of property located within 300 feet of the exterior boundaries of the Subject Property, (2) the occupants of all single and two-family dwellings located within 300 feet of the exterior boundaries of the Subject Property, and (3) all neighborhood improvement associations whose subject areas are known to be located within at least 300 feet of the exterior boundaries of the Subject Property.

On July 17, 2023 the Board held a public hearing to consider the Petitioner's appeal. In advance of and during the public hearing, the BZA was presented with testimony, documents, and other information pertinent to the Petitioner's appeal:

Information from BZA Staff:

- BZA Appeal Petition filed December 22, 2022.
- BZA Staff Report prepared by Inspector April Purofoy
- Photo Presentation of BZA Staff Field Inspection, conducted on July 17, 2023.

Information from Petitioner:

- Testimony of the Petitioner.
- 1. Petitioner testified that they wish to overturn the BSEED Decision to allow for the **establishment of a very high-impact manufacturing or processing facility (crushing, grading, and screening of rock, stone, slag, clay, or concrete) on a 4.7-acre vacant site in a M4 (Intensive Industrial District).**
 2. Petitioner further testified that the requested variance is consistent with the Master Plan as it is located in an intensive industrial district.
 3. BSEED attorney stated that BSEED in their decision that at the time of inspection, there were numerous piles of dirt, concrete, and asphalt on the site. The applicant does not have the correct screening to shield the residential neighborhood, thus could pose an adverse public health, noise and safety hazard for residents.
 4. BSEED attorney stated that BSEED in their decision per the Planning and Development Department, due to the very high impact nature of the proposed asphalt production plant, heavy vehicle traffic associated with the use (around 60 trucks daily) and its proximity to the southern residential community, it does not comply with the current Master Plan of Policies Future Land Use designation of Light Industrial thereby could aggravate any pre existing physical, social or economic deterioration of the adjacent residential neighborhood.
 5. BSEED attorney stated that BSEED in their decision per the City Planning Commission, the Pope Francis Center Bride Housing is a 40 unit housing facility that is currently under construction, to the north of the subject property. To serve the homeless and provide social services help. This use is less than 300 feet away. Which could expose the campus to external emissions and environmental impacts\.
 6. BSEED attorney stated that BSEED in their decision the applicant has otherwise failed to meet its burden and satisfy other general approval criteria outlined in Section 50-3-281 that the conditional use sought will not substantially diminish or impair property values within the neighborhood.

7. BSEED attorney stated that BSEED in their decision the applicant has otherwise failed to meet its burden and satisfy other general approval criteria outlined in Section 50-3-281 that conditional use sought will be compatible with the capacities of public services and public facilities that area affected by the proposed use.
8. BSEED attorney stated that BSEED in their decision the applicant has otherwise failed to meet its burden and satisfy other general approval criteria outlined in Section 50-3-281 that adequate utilities, access roads, drainage and other necessary facilities have been or will be provided.
9. BSEED attorney stated that BSEED in their decision the applicant has otherwise failed to meet its burden and satisfy other general approval criteria outlined in Section 50-3-281 that the conditional use sought will be compatible with land uses on adjacent and nearby zoning lots in terms of location, size and character.
10. BSEED attorney stated that BSEED in their decision the applicant has otherwise failed to meet its burden and satisfy other general approval criteria outlined in Section 50-3-281 that the conditional use sought is so designed, located, planned and will be operated so that the public health, safety and welfare will be protected.
11. Petitioner was not present for the hearing so no testimony was garnered.

Information from the Public in Support or Opposition of Petitioner's Appeal:

1. Large amounts of opposition was present to testify that this type of use is too intense for this area.
2. Large amounts of opposition testified that BSEED made the right decision to deny the proposed request at this location because it would interfere with the air quality.
3. Large amounts of opposition testified that the proposed facility would interfere with enjoyment of the use of their properties as the trucks would utilize residential streets.
4. Large amounts of opposition testified that this type of use is not the highest and best use for not only this property but also the surrounding community.

BZA DECISION:

WHEREAS, the BZA has authority under the Detroit Zoning Ordinance to consider this appeal and the Petitioner has standing to bring this appeal before the BZA; and

WHEREAS, the BZA has provided public notice of this appeal in accordance with the Michigan Zoning Enabling Act and the Detroit Zoning Ordinance; and

WHEREAS, the BZA staff has reviewed this appeal, conducted field inspections of the Subject Property, and reported its findings to the BZA; and

WHEREAS, the BZA has held a public hearing on this appeal, during with the Petitioner, relevant City Departments, and all members of the public who desired to be heard were provided opportunity to provide testimony, documentation, and other information relevant to this appeal; and

WHEREAS, the Petitioner has been given the opportunity to present this appeal before the BZA; and

WHEREAS, all testimony, documentation, and other information submitted to the BZA prior to or during the public hearing has been provided to the BZA for consideration;

NOW THEREFORE:

After careful consideration and based on the following findings, Board Member Hill-Knott offered a motion to **Uphold BSEED's Decision to Deny** the Petitioner's request. This motion was seconded by Board Member Moore.

1. The Board found that P&DD recommended Denial for the proposed use.
2. The Board further found that BSEED made the correct decision based on the information submitted and it is proper to Uphold BSEED's decision.
3. The Board further found that petitioner was not present to give any explanation which is disrespectful to the Board, staff and citizens of this community.
4. The Board further found that the establishment, maintenance, location and operation of this proposed conditional use would be detrimental to and endanger the social, physical, environmental and economic well being of the surrounding neighborhoods.
5. The Board further found that the conditional use would involve activities, processes, materials, equipment or conditions of operation that would be detrimental to the physical environmental or public health and general welfare by reason of excessive production of noise, smoke, fumes glare and maybe odors.

CAUTION

The granting of an appeal by the Zoning Board of Appeals pertains only Zoning regulations. The grant does not abrogate or release the grantee from complying with all laws relating to safety, stability, health, etc., as required by the Building, Housing, Electrical, Plumbing and other Municipal Codes

FINAL DECISION

Any decision of the Board of Zoning Appeals may be appealed to Circuit Court as specified in 125.585 (MSA 5.2935) of the Zoning Enabling Act of Michigan, Act 207 of the Public Acts of 1921, as amended.

The minutes of the Board of Zoning Appeals decision in this case were approved by the Board during its public meeting held on July 24, 2023.

CERFITIFIED COPY FROM THE BOARD OF ZONING APPEALS, CITY OF DETROIT FOR THE WAYNE COUNTY REGISTER OF DEEDS.



James W. Ribbron, Director – Board of Zoning Appeals

PREPARED BY APRIL T. PUROFOY