



Zoning Board of Appeals
Mount Vernon, New York 10550-2060

Shawyn Patterson-Howard
Mayor

Elvira Castillo
Chair

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In the Matter of the Application by

American Medical Response of New York, LLC

**FINDINGS OF FACT,
CONCLUSIONS OF LAW &
DETERMINATION**

For INTERPRETATION of
Mount Vernon Zoning Code § 267-19(A)(1)&(2)

Zoning Board Calendar # 1744-Z

Property:

521 East Third Street, Mount Vernon, NY
Tax Map No. 165.82, Block 4028, Lot 8
In the NB Zoning District

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Per Zoning Board application dated February 2, 2022, Owner, Mikhail Tsinberg/Digital HiFi, Inc. by and through American Medical Response of New York, LLC (the “Applicant”), proposes to use the subject property as a commercial ambulance operations base including office space, classroom and training space, dispatch center, fleet storage, and light maintenance. The proposed base will provide service in Westchester and the Bronx. Tenant improvements to the existing building will include minor cosmetic updates and no site improvements are proposed. Applicant seeks an interpretation regarding the City of Mount Vernon’s definition of the proposed use and whether the proposed use is permitted as a principal use or accessory use in the NB (Neighborhood Business) zoning district under § 267-19(A)(1), (2) of the Mount Vernon Zoning Code.

The subject property is located at 521 East 3rd Street in the NB Neighborhood Business zoning district, Block 4028, Lot 8 on the Tax Assessment Map No. 165.82 of the City of Mount Vernon.

FINDINGS OF FACT

The Application

1. Per the Application, Mikhail Tsinberg/Digital HiFi is the Owner of the subject property; American Medical Response of New York, LLC, is the Applicant; Kevin May, Associate General Counsel for American Medical Response of New York, LLC is the Legal Representative; and Justin W. Petersburg, AIA, of Torgerson Design Partners is the Lead Design Professional.

Zoning Review

2. The subject property is located in an NB Neighborhood Business District.
3. The following principal uses are permitted in the NB zoning district pursuant to § 267-19(A)(1)(b), (g) and (q) of the Mount Vernon Zoning Code:
 - Business, professional or governmental offices;
 - Business and/or trade schools; and
 - Municipal uses of the City of Mount Vernon.
4. The following accessory uses are permitted in the NB zoning district pursuant to § 267-19(A)(2) of the Mount Vernon Zoning Code: “Uses and structures which are clearly incidental and customarily accessory to the permitted principal use on the lot on which they are located.”
5. The purpose of the NB Neighborhood Business District is “to serve the retail and service convenience shopping needs of residential areas and to provide the opportunity for the continuation of pedestrian-oriented retail and service business uses in the City’s residential neighborhoods.” *See* Mount Vernon Zoning Code § 267-15(B)(1).

Hearing

6. Due notice of a public hearing to be held on March 15, 2022 was provided by a mailing to property owners within a 250 foot radius of the subject site on March 3, 2022, by publication in the Journal News newspaper on March 2, 2022 and March 3, 2022, and by the posting of a sign on March 1, 2022.
7. The Zoning Board commenced a duly noticed public hearing regarding this application on March 15, 2022 and closed such hearing on the same date.
8. Prior to the hearing, the Board Members reviewed the full application package, which included the completed Zoning Board Application, dated February 2, 2022; American Medical Response (AMR) Mount Vernon, NY Submarket/Site Report, dated January 25, 2022, prepared by Collier’s International (this report contained color photographs depicting multiple views of the site and surrounding properties); Zoning Table, dated February 9, 2022, submitted by American Medical Response of New York, LLC (indicating no change to

the existing site); ZBA Land Use Parcel Map, dated February 9, 2022, generated by Westchester County GIS; Schematic Site Plan Overlay, Sheet A1.0, dated February 9, 2022; Affidavit of Mailing, dated March 7, 2022; Affidavit of Sign Posting, dated March 2, 2022; Affidavit of Publication in the Journal News, dated March 3, 2022; radius map; list of property owners within the prescribed radius; and notice to property owners.

9. For State Environmental Quality Review Act (SEQRA) purposes, the Zoning Board considered the subject application a “Type II” action pursuant to 6 NYCRR 617.5(c)(37)(interpretation of an existing code, rule or regulation), thus ending the SEQRA process.

10. A public hearing was held on March 15, 2022 at 6:30 p.m. via videoconference. On March 15, 2022, a quorum was present consisting of the Zoning Board Chair and two (2) Members, for a total of three (3) Members present. The Zoning Board secretary received two (2) written consents and one (1) written objection from the public.

11. The public was afforded the opportunity to speak in opposition to, in favor of, or otherwise comment on the application.

12. At the hearing, the following parties appeared before the Zoning Board: Justin W. Petersburg, AIA, of Torgerson Design Partners, Lead Design Professional for AMR; Patrick Pickering, Regional Director with Global Medical Response (GMR), parent company to AMR; and Dan Leibowitz, Vice President, AMR NYC. Public comment was also received from City of Mount Vernon Deputy Fire Commissioner Teddy Beale; and resident Mike Winkler.

Findings

13. Based on the public hearing, written comments, and Applicant’s submissions, the Zoning Board finds as follows: The proposed use is a commercial ambulance operations base including office space, classroom and training space, dispatch center, fleet storage, and light maintenance; no heavy maintenance will be performed on site; instead, all heavy maintenance will be performed at a facility that Applicant maintains in the Bronx; Applicant provides mutual aid EMT services for surrounding municipalities and the City of Mount Vernon receives the majority of mutual aid responses; Applicant runs a training program called “Earn While You Learn”, an intensive course in which Emergency Medical Technician (EMT) trainees learn the tools of the EMT trade while being paid; the Earn While You Learn training promotes diversity in the emergency medical

services industry and is available to residents of the Mount Vernon community; Transcare ambulance services previously operated out of 154 E. 3rd Street near Franklin Avenue in Mount Vernon for several years without incident and with minimal environmental impact on the community; Transcare's previous location was also in an NB Neighborhood Business District and is less than one mile away from the subject site; to minimize and reduce the volume of diesel emissions, AMR is moving away from diesel powered vehicles and AMR drivers do not allow company vehicles to idle; only 2-3 vehicles (less than 15% of AMR's fleet) currently run on diesel fuel and those vehicles are close to replacement; regarding traffic impacts, congestion will be minimal because AMR's peak traffic volume occurs late in the morning and in the evening, during non-peak, after rush hours; most AMR employee shifts/tours run for 10-12 hours; employees of the company generally arrive on site to check fleet vehicles in and out; and all company vehicles are operated by trained drivers who have completed defensive driving courses and have clean driving records.

14. The existing use consists of the headquarters for Key Digital, a design and production facility for digital AV technology for commercial and residential audio, video, and control solutions. The subject property is 21,000 sf containing two attached single-story warehouse buildings. One warehouse has 7,500 sf with roll up doors and 22' ceiling height. The second single story warehouse has 3,500 sf with roll up door and includes Class A office space with private offices and a large conference room. The subject property has an adjacent outdoor parking lot containing 13 parking spaces. There are no changes proposed to the parking lot. There is on-street parking and two outdoor parking lots across the street. The surrounding commercial buildings have onsite parking lots. Applicant seeks to relocate from its 11,000-sf site at 35 Bartels Place in New Rochelle to the subject site.

CONCLUSIONS OF LAW

Jurisdiction, Standard of Review and Applicable Law

15. Pursuant to Mount Vernon City Zoning Code § 267-43(E), the Zoning Board of Appeals, on its own initiative, is authorized and hereby elects to decide Applicant's question involving the interpretation as to the definition of the proposed use and whether the proposed use is permitted as a principal use or accessory use in the NB (Neighborhood Business) zoning district pursuant to § 267-19(A)(1),(2) of the Mount Vernon Zoning Code.

16. Regarding interpretations by the Zoning Board of Appeals, Mount Vernon Zoning Code § 267-43(E) provides, “Interpretations shall be made in accordance with the intent of the particular provision being interpreted.”

17. Pursuant to Mount Vernon Zoning Code § 267-1(D), one of the purposes of Chapter 267 (Zoning) is to “secure safety from fire, flood and other dangers and to promote the public health, safety and welfare....”

18. Pursuant to Mount Vernon Zoning Code § 267-15(B)(1), the specific purpose of the NB Neighborhood Business District is “to serve the retail and service convenience shopping needs of residential areas and to provide the opportunity for the continuation of pedestrian-oriented retail and service business uses in the City’s residential neighborhoods.” Although ambulance operations are not specifically mentioned as principal or accessory uses in the NB Neighborhood Business District under § 267-19(A)(1) or (2), the Zoning Board takes judicial notice that ambulance operations are not specifically listed as a use in any of the residence or nonresidence districts set forth in the Mount Vernon Zoning Code. However, that does not necessarily mean that ambulance bases are precluded from operating in the City; more likely, it indicates that the list of permitted and accessory uses is not exhaustive. Therefore, the Board is guided by the intent of the NB District provisions (as required by Mount Vernon Zoning Code § 267-43(E)) and hereby concludes that, in this particular case, the fact that the Zoning Code does not specifically list ambulance operations as a principal or accessory use in the NB Neighborhood Business District does not preclude the operation of such enterprise here. To the contrary, in an NB District designed to service the convenience shopping needs of residential areas and promote the continuation of pedestrian-oriented businesses in residential neighborhoods, it would be reasonable, desirable, —even lifesaving—to have emergency ambulance services nearby. This is in line with one of the stated purposes of the Zoning Code which is to secure safety from dangers and to promote public health, safety, and welfare.

19. Based on the findings itemized in Paragraph 13 above, the Zoning Board hereby concludes that, in this case, Applicant’s proposed use of the property as a commercial ambulance operations base aligns with the intent and purpose of the NB Neighborhood Business District.

DETERMINATION

20. For the foregoing reasons, this Board hereby determines that ambulance operations are not specifically mentioned as principal or accessory uses in the NB Neighborhood Business District under § 267-19(A)(1) or

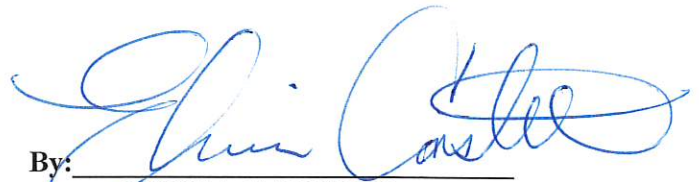
(2) of the Mount Vernon Zoning Code, and the Board will not presume to usurp the authority of the City Council and create such definition here. However, this Board *is* authorized and required to interpret the subject provision in accordance with the intent of the provision. Accordingly, this Board hereby determines that, in this instance, Applicant’s proposed use of the property as a commercial ambulance operations base including office space, classroom and training space, dispatch center, fleet storage, and light maintenance, is in keeping with the intent of the NB Neighborhood Business District as set forth in § 267-15(B)(1) of the Mount Vernon Zoning Code, and is permitted as a principal use along with any attendant accessory uses in the NB Neighborhood Business District pursuant to § 267-19(A)(1) and (2) of the Mount Vernon Zoning Code.

21. Following deliberations, on March 15, 2022, a motion to approve Applicant’s proposed use as permitted within the NB Neighborhood Business District was made by Board Member A. Cutler, seconded by Board Member Solly, and carried by a unanimous vote of the three (3) Zoning Board members present.

Total Members: 4
Members Present: 3
Motion/Motion 2nd: Cutler/Solly
Ayes: 3 (E. Castillo, Cutler, Solly)
Nays: 0
Abstain: 0
Absent: 1 (Darden)
Vacancy: 1

Date Adopted: March 15, 2022

Date Signed: 4-22, 2022

By: 
ELVIRA CASTILLO
CHAIR