

Township of

Evesham

June 28, 2007

Timothy M. Prime, Esquire
750 Route 73 South
Suite 306
Willow Ridge Executive Park
Marlton, NJ 08053

Marlton, NJ 08053

Re: *Eckerd Store*
North Maple Ave. & Greentree Rd.
Bl 8.15, Lot 2.02
ZB 06-30

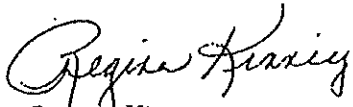
Dear Mr. Prime,

Enclosed please find an executed copy of the above referenced resolution. Please be advised that Township Code (Chapter 15-19) require that a brief notice be sent to the official newspaper of the Township (*The Central Record*) for publication of the decision. Such publication shall be arranged by the applicant who shall bear the expense of same.

Please do not hesitate to call if you have any questions.

Very truly yours,

TOWNSHIP OF EVESHAM


Regina Kinney
Administrative Officer

Cc: *Township Clerk w/encl.*
Assessor w/encl.
Job File w/enc.
James Ruddiman, PE

- Approved
- General Conditions
- Additional Conditions
- Denied

EVESHAM TOWNSHIP ZONING BOARD
RESOLUTION # ZB-06-30

<input type="checkbox"/> Appeal from Administrative Officer Decision <input type="checkbox"/> Interpretation <input checked="" type="checkbox"/> "C" Variance <input type="checkbox"/> "D" Variance <input type="checkbox"/> Subdivision <input type="checkbox"/> Site Plan <input type="checkbox"/>	Application # <u>ZB-06-30</u> Applicant <u>Eckerd Corporation</u> Owner <u>Rosalind and Robert Lavin</u> Block <u>8.15</u> Lot <u>2.02</u> (P.I.Q.) Action <u>May 21, 2007</u> Memorialized <u>June 18, 2007</u> Plan Name <u>N/A</u>
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WHEREAS, the applicant has applied to the Evesham Township Zoning Board of Adjustment (ETZBA) for the following primary approvals(s): Sign Variance pursuant to N.J.S.A. 40:55D-70c as to size of signage under Code Section 160-75.M.1, and number of signs under Code Section 160-75.M.1; and

WHEREAS, the applicant has applied for the following ancillary approvals(s): None

_____; and

WHEREAS, the application was considered by the ETZBA on May 21, 2007; and

WHEREAS, a public hearing () was not required; or

WHEREAS, a public hearing (X) was required and the ETZBA has considered that public comments

- were not made by the public
- were made in favor of all or some aspect of the application
- were made against all or some aspect of the application; and

WHEREAS, it appears that all jurisdictional and procedural requirements of the applicable Township Ordinances have been met; and

WHEREAS, the ETZBA has considered the application and the evidence and arguments submitted by the applicant in support thereof; and

WHEREAS, the ETZBA has considered the recommendations and comments of its professional staff and the following written reports:

- () Engineer report(s) dated _____

- (X) Planner report(s) dated May 17, 2007

- () Traffic consultant report(s) dated _____

- () Environmental Consultant report(s) dated _____

- () Evesham Township Environmental Protection Committee report(s) dated _____

- () Other _____

Copies of which are attached hereto and made a part hereof respectively as **Exhibit "A"**; and

WHEREAS, it appears that all requirements necessary to approve the application have been met; and

WHEREAS, the ETZBA has made the following findings of fact and conclusions (see attached); and

NOW THEREFORE, BE IT RESOLVED that the above primary approval(s) applied for be and is/are hereby granted; and

BE IT FURTHER RESOLVED that the above ancillary approvals be and is/are hereby granted; and

BE IT FURTHER RESOLVED that the approval(s) hereby granted are made subject to the following General Conditions applicable to this type of application (see attached); and

BE IT FURTHER RESOLVED that the approval(s) hereby granted (X) **are made subject to** () are not made subject to the following Additional Conditions (See attached).

The foregoing action was taken by the ETZBA on May 21, 2007 upon the motion of Williamson seconded by Waters with the vote on the motion being as follows:

AYE: Pullo, Ragozine, Waters, Williamson, Dave, LaVerghetta
Shipley

NAY:

ABSTAIN:

ABSENT:

DID NOT PARTICIPATE:

The foregoing action was memorialized by the ETZBA on June 18, 2007 upon the motion of Waters seconded by Pullo, with the vote on the motion being as follows:

AYE: Pullo, Ragozine, Waters, Dave, Shipley

NAY:

ABSTAIN:

ABSENT:

DID NOT PARTICIPATE:

The undersigned Secretary of the ETZBA hereby certified that the above is a true copy of Resolution # ZB 06-30 adopted by the ETZBA on 6-18-2007.


REGINA KINNEY, SECRETARY

FINDINGS OF FACT AND CONCLUSIONS

1. The applicant applied for a sign variance pursuant to N.J.S.A. 40:55D-70c as to: (1) size of signage and (2) number of signs and (3) setback under Code Section 160-75.M.1 for the Eckerd Pharmacy facility located at North Maple Avenue and Greentree Road and more particularly described as Block 8.15, Lot 2.02 on the Evesham Township tax map. (Hereinafter the PIQ).

2. The applicant's attorney indicated that the proposal was to add signage in order to advise the public of the location and use of the PIQ. The applicant's attorney and planner characterized the site as unique in that there are five different ways to approach the PIQ which fronts on three separate roads. Presently, only one side of the PIQ contains signage. The applicant indicated that the building is set back hundreds of feet from the road.

3. The applicant's attorney identified and qualified a rendering of the proposed signage for the PIQ (A-1, six page signage package). In addition, applicant's attorney identified and qualified A-2, A-3 and A-4, all photo exhibits depicting the PIQ from an aerial and from the various approaches to the site. A-4 is a photo simulation of the proposed sign package.

4. A representative of the applicant and the applicant's planner indicated that additional signage was proposed to increase recognition of the use upon the PIQ. Since the approval of the original sign package, there has been significant additional development in the area of the PIQ. Specifically, three banks have been constructed, an additional pharmacy, a fast food restaurant, and the WaWa has experienced a significant expansion. A nursery school has also been constructed in the area. It was explained that the current Eckerd sign package provides less signage than all the other commercial uses in the area. The PIQ is less visible than the other uses in the area. There are significant hedgerows that screen the site from view and the driveways are disassociated from the use given their layout.

5. The applicant's representative and planner indicated that a majority of the traffic passing in front of the PIQ and along the various approaches to the PIQ is pass-by traffic and that the applicant seeks to appeal to such pass-by traffic and identify its

location. The purpose of the signage is to provide location information rather than advertising.

6. The applicant's planner indicated that the variances sought were pursuant to N.J.S.A. 40:55D-70c and that the proposal would advance the purposes of the Municipal Land Use Law by providing for appropriate use of land and a desirable visual impact.

7. The applicant's planner indicated there would be no negative effect on the zone plan as the use is already an approved use and permitted in the zone and that the aesthetics and signs would be consistent with what is generally seen on the road frontages in the area of the PIQ. The applicant's planner testified that the safety of the site would be enhanced in that motorist would be aware of the upcoming entrances as they proceed along the various frontages of the PIQ. The Planner testified that the proposed relief from the ordinance is consistent with the use and consistent with the goals and objectives of the zone.

8. The applicant's planner further indicated that the variances would not substantially impair the public good, nor would they substantially impair the intent and purpose of the Evesham Township Zone Plan and Zoning Ordinance as the availability of the information and the visual impact were all appropriate and beneficial to the PIQ and consistent with surrounding uses.

9. The sign requirements, as they relate to this application, are detailed in the table included in the Planner's letter dated May 17, 2007. Also included is an inventory of the proposed signs on page 2. The applicant proposes 2 free standing signs and 1 two sided pylon sign and 6 attached signs. The applicant proposes a total of 333.82 square feet of signage on the site. The applicant proposes a fifteen (15) foot setback for the pylon sign. Variances are required from Section 160-75.M.1 for the quantity, total area, number of the signs and the proposed set back.

10. The applicant agreed, as a condition of approval, that the proposed signage would be capped and enclosed.

11. The applicant agreed, as a condition of approval, to remove the capsules from all proposed signage as detailed in the sign package included at A-1.

12. The applicant agreed, as a condition of approval, to remove the sign proposed for the North Church elevation of the PIQ and delete it from their requested sign package.

13. The applicant agreed, as a condition of approval, to lower the pylon sign to a total height of twelve (12) feet and remove reference to the one-hour photo and drive thru.

14. The ETZBA reviewed and considered the May 17, 2007 report of the ETZBA Planning Consultant prepared by Martin Truscott, attached hereto as **Exhibit "A"**.

15. The ETZBA opened the May 21, 2007 hearing on this application to the public, however, no member of the public desired to testify.

16. Based upon all of the foregoing, the ETZBA finds that in regard to the specific PIQ, the purposes of the Municipal Land Use Law, N.J.S.A. 40:55D-2, would be advanced by the requested variances and that the benefits of the variances would substantially outweigh any detriment. Specifically, the ETZBA finds that the requested variances would advance the purposes of N.J.S.A. 40:55D-2i by creating a desirable visual environment through creative development techniques and NJSA 40:55D-2a by promoting public safety and general welfare by permitting motorists to identify the applicant's use and reduce traffic concerns on and around the PIQ.

17. The ETZBA further finds that the variances can be granted without substantial detriment to the public good and that the variances will not substantially impair the intent and purposes of the Evesham Township Zone Plan and Zoning Ordinance. Specifically, the applicant has advanced the public good by providing signage to enhance safety by allowing motorists to identify the applicant's use. The signage is consistent with existing sign packages in the area.

18. The ETZBA, therefore, concludes that the variances pursuant to N.J.S.A. 40:55D-70c as to: (a) size of signage under Code Section 160-75.M.1; and (2) as to the number of façade signs under Code Section 160-75.M.1 and (3) as to set back for the freestanding pylon sign under Code Section 160-75.M.1 should be and are hereby granted subject to the conditions set forth in this resolution.

GENERAL CONDITIONS OF APPROVAL

1. Any variance granted permitting the erection or alteration of any structure(s) or a specified use shall expire unless such construction, alteration or use shall have been actually commenced on each and every structure permitted by said variance within one (1) year from the date of the ETZBA's action and is diligently pursued to completion; except, however, the running of this period shall be tolled from the date of filing an appeal from the ETZBA's decision to Township Council, or to a court of competent jurisdiction, until the termination in any manner of such appeal or proceeding (Code Section 15-5). This Condition shall not apply if preliminary approval has been granted, extended and is still in effect pursuant to N.J.S.A. 40:55D-49 or if final approval has been granted, extended and is still in effect pursuant to N.J.S.A. 40:55D-52.

2. A brief notice of this decision shall be published in the official newspaper of the Township, at the applicant's expense. The aforementioned notice shall be sent to the official newspaper for publication within ten (10) days of the date of this decision is memorialized (Code Section 15-19). A proof of publication shall be filed with the Administrative Officer of the ETZBA within thirty (30) days of the date the decision is memorialized.

3. The applicant shall promptly pay any professional staff fees billed, in excess of the required application escrows, or appeal in accordance with Code Section 94-10K.

4. These General Conditions of Approval shall be binding upon the applicant, the owner and any successors and/or assigns of either.

5. The Additional Conditions of Approval, if any, shall be binding upon the applicant, the owner and any successors and/or assigns of either.

6. The approval(s) granted is/are conditioned upon the applicant obtaining the following governmental approval(s).

- () Burlington County Planning Board
- () Pinelands Commission .

7. Prior to the commencement of any construction, the applicant shall obtain the following governmental approvals and/or permits:

- (X) Evesham Township Construction Code Official
- () Burlington County Soil Conservation District
- () New Jersey Department of Transportation Highway Access Permit
- () Burlington County Engineer Highway Access Permit
- () Burlington County Engineer Utility Connection Permit
- () Burlington County Board of Health Approvals
- () Evesham Municipal Utilities Authority approval (including, without limitation, W-4 and S-4 permits
- () New Jersey Department of Environmental Protection
- () New Jersey Department of Environmental Protection-wetlands delineation, wetlands transition area and/or general permit(s) approval

8. The applicant shall be responsible for and shall satisfy, in accordance with the Evesham Township Land Use Ordinance, the following fees and charges:

- () Mandatory Development Fees
- () Floor area Ratio Fees in the amount of \$ _____.

9. Any improvement(s) to be constructed as a result of the ETZBA approving this application shall be constructed and operated in full compliance with the Code of Evesham Township, the Revised Statutes of the State of New Jersey and any other applicable county and/or Federal law.

10. Unless specifically waived in whole or in part and noted in the Additional Conditions of this approval, if the above application involves the granting of a final major subdivision approval or a final site plan approval or the approval for the issuance of a zoning permit, the applicant, in order to assure the installation and maintenance of all required improvements required by the preliminary approval or as a condition to the issuance of a zoning permit, shall furnish written performance guarantees and written maintenance guarantees in the form(s) which comply with the provisions of N.J.S.A.

40:55D-53, et seq. and the Evesham Township Code. The amount of each performance guarantee shall equal 120% of the amount estimated by the Township Engineer as the cost of installing the required improvements. The maintenance guarantee shall equal 15% of the cost of the improvements and shall cover a period of two (2) years after the final acceptance of the improvements.

11. If the above application involves the granting of a final subdivision or final site plan approval, the Chairperson and Secretary of the ETZBA shall not sign the Final Subdivision Plat or Final Site Plan nor shall any zoning permit issue until the applicant has posted the required performance guarantee and the applicant has demonstrated that all conditions of the final approval have been satisfied.

12. Applicants seeking site plan or preliminary and/or final subdivision approval shall:

A. Submit five (5) copies of a complete survey of the property (except for streets) to be dedicated, which survey shall be performed and certified by a licensed surveyor.

B. Submit a topographic survey showing contour intervals of two (2) feet at a scale no larger than one (1) inch equaling one hundred (100) feet.

C. Submit five (5) copies of complete (as-built) plan of any improvements, except for streets, on the dedicated property.

D. Submit a deed of conveyance, approved as to form, content and description by the Township Attorney. The said deed shall contain provision for the signature of the Mayor and attestation by the Township Clerk. Where streets are offered for acceptance, a legal description by metes and bounds describing the centerline shall be included.

E. Obtain title insurance naming the Township of Evesham as the insured party in an amount equal to the fair market value of the dedicated property; this requirement shall not pertain to streets. In the case of drainage easements not shown on or generated after the final plan is filed in the County Clerk's office and property having a fair market value on one thousand dollars (\$1,000) or less, a title search indicating marketable title shall be sufficient, provided that said search is certified by a title insurance company authorized to do business in the State of New Jersey.

13. If a minor subdivision approval has been granted, such approval shall lapse unless within 190 days from the date the approval has been granted the applicant either files a plat in conformity with the approval and the "Map Filing Law" (N.J.S.A. 46:23-99, et seq.) or records a deed with the County Clerk which clearly described the approved minor subdivision and files a copy of the deed with the Township's Engineer and the Township's Tax Assessor. Such deed shall also be signed by the Chairman and Secretary of the ETZBA.

14. If a final approval has been granted, the applicant shall submit to the ETZBA Engineer for his review a minimum of 8 complete sets of plans which shall incorporate all of the revisions that have been made conditions of this approval.

15. As part of this first application for final approval, the applicant shall provide a construction schedule as required by the Evesham Township Ordinances which must be satisfactory to the ETZBA Engineering Consultant.

16. The applicant shall comply with Title 39 of the New Jersey Statutes.

17. The applicant shall construct all drainage basins or alternate drainage facilities upon the P.I.Q., including inflow and outflow structures, prior to the commencement of any construction upon the P.I.Q.



EVZB-R0690

May 17, 2007

Jeffrey Saper, Chairman
 Zoning Board of Adjustment
 Township of Evesham
 984 Tuckerton Road
 Marlton, New Jersey 08053

**Re: Application No. ZB 06-30
 Eckerd Corporation
 Bulk Variance for Signage- Second review
 Block 8.15, Lot 2.02; North Maple Avenue and Greentree Road
 C-2 – Commercial Zone District**

Dear Chairman and Board Members:

We have reviewed the above-referenced application for bulk variance approval and offer the following comments:

A. Project Description.

The applicant seeks bulk variance approval for the addition of two (2) freestanding signs and six (6) façade signs on the existing Eckerd's pharmacy building. The applicant proposes to remove the existing façade sign and two (2) pylon signs. The applicant also proposes to reface the existing directional signage that is located onsite. The Ordinance permits each building in the C-2 Commercial Zone District to have one (1) major sign, either freestanding or attached, not exceeding twenty (20) square feet. A total of two (2) freestanding signs (one pylon and one monument) and six (6) attached signs are proposed.

The subject site is located on Block 8.15, Lot 2.02, near the intersection of North Maple Avenue and Greentree Road, in the C-2 Commercial District.

B. Zoning:

1. The current use of the subject property is a retail store, which is permitted as a principal use in the C-2 Commercial Zone District.
2. This property is subject to the requirements of §160-75M. An analysis of the sign requirements as they relate to this application is provided below:

	Permitted (C-2 Zone)	Proposed	Ordinance Section
Maximum Number	One (1)	Two (2)* freestanding and one two-sided pylon, and six (6) attached signs*	160-75.M.2
Maximum Size (sq. ft.)	Twenty (20)	333.82 square feet* (total of proposed onsite signage)	160-75.M.2
Front Setback (feet)	1.1F per 1.5 sq. ft. or 37.92 ft. (56.88 sq. ft./1.5) for Church Street and 16.6 feet for the monument sign*	15 feet* (Applicant to confirm)	160-75.M.2
Maximum Height (feet)	22 feet	15 feet	160-75.B.1

*Variance required.

Le: Jeffrey Saper, Chairman
Township of Evesham Zoning Board
Re: Application No. ZB 06-30
Eckerd Corporation
Bulk Variance for Signage

An inventory of the proposed signs is provided below:

Sign	Location	Sign Area (square feet)
Monument	Greentree Road	25.00
Freestanding Pylon	Church Street	44.16
Attached	South Elevation (Greentree)	78.53
Attached	South Elevation (Greentree)	4.00
Attached	North Elevation (Church)	49.80
Attached	West Elevation (Maple)	78.53
Attached	West Elevation (Maple)	4.00
Attached	East Elevation (Church)	49.80
Total:		333.82

Based on the above, variances are required from §160-75.M.1 for the quantity, total area of the signs, and the setback. Directional signs that comply with the ordinance are not calculated as signs. The applicant can testify as to the existing signage compliance and relief previously granted as a comparison to the relief sought at this time.

3. The applicant must satisfy the positive and negative criteria for the bulk variances:

a. Positive Criteria:

The applicant must prove either a hardship in developing the site in conformance to the zone standards due to exceptional narrowness, shallowness, or shape of the property; or due to exceptional topographic conditions or physical features uniquely affecting the property; or due to an extraordinary and exceptional situation affecting the property or its lawful existing structures.

Alternatively, the applicant may satisfy the positive criteria by demonstrating that the variance relief will promote a public purpose as set forth in the Municipal Land Use Law (*N.J.S.A. 40:55D-2*) and, thereby, provide improved community planning that benefits the public, and that the benefits of the variance substantially outweigh any detriments.

b. Negative Criteria:

The applicant must also show that the bulk variances can be granted without substantial detriment to the public good or substantially impairing the intent and purpose of the zone plan. This requires consideration of the impact of the proposed variances on surrounding properties and a determination as to whether or not the variance would cause such damage to the character of the neighborhood as to constitute a substantial detriment to the public good.

C. Review Comments.

1. The applicant should discuss the nature of the proposed sign package in comparison to the signs discussed at the prior hearing.
2. The applicant should provide information confirming the setback of the proposed pylon and monument signs relative to the Ordinance requirement of one linear foot for each 1.5 square feet

Le: Jeffrey Saper, Chairman
Township of Evesham Zoning Board

Re: Application No. ZB 06-30
Eckerd Corporation
Bulk Variance for Signage

- of sign area. Therefore, the pylon sign (on Church Street) must be setback 37.92 feet and the monument sign must be setback 16.6 feet. The applicant proposes 15 feet in both cases.
3. The location of the freestanding signs relative to the sight triangle should be provided.
 4. The monument sign will have wording on the two sides facing the street and the lettering on each face will be separated by more than 18 inches. This sign shape is not contemplated under §160-75.B.1m. ("Shape").
 5. The applicant should provide documentation that the State of New Jersey requires the separate Pharmacy Department signs since the major signs on the facility have Pharmacy appearing eight other times.
 6. The Zoning Board may wish to request that the street address appear prominently on the monument sign in order to facilitate locating the facility quickly by emergency (fire and rescue) vehicles.

We reserve the right to provide additional comments upon receipt of supplemental drawings.

Should you have any questions concerning this letter, please contact my office.

Very truly yours,

T&M ASSOCIATES


MARTIN P. TRUSCOTT, AICP, PP
CONSULTING PLANNER

SCS:MPT:JCJ:lbw

cc: Zoning Board Members, Individually
R. Kinney, Administrative Officer (Via Facsimile: 856/ 983-6709)
P. Lange, Esq., Board Solicitor (Via Facsimile: 609/ 654-5919)
R. Orth, P.E., Board Traffic Engineer (Via Facsimile: 215/ 735-5954)
F. Turek, P.E., Board Engineer (Via Facsimile: 856/ 429-5904)
Eckerd Corp., 1689 Post Road, Warwick, RI 02286
Rosalind & Robert Lavin, 1230 Arrowmink Road, Villanova, PA 19085
Timothy M. Prime, Esq., Timothy M. Prime, LLC, 750 Rt. 73 South, Suite 306, Willow Ridge
Executive Park, Marlton, NJ 08053
Chandler Signs, LLP, 400 Banner Trail, Florissant, CO 80816
Joseph Kennedy, Chandler Signs, 3201 Manor Way, Dallas, TX 75235