

RESOLUTION NO. 15-09

TOWNSHIP OF EVESHAM

PLANNING BOARD

RE: APPLICATION NO. PB 15-09

- | | |
|---|---|
| <input checked="" type="checkbox"/> Minor Subdivision | <input checked="" type="checkbox"/> Approved |
| <input type="checkbox"/> Major Subdivision Preliminary | <input checked="" type="checkbox"/> General Conditions |
| <input type="checkbox"/> Major Subdivision Final | <input checked="" type="checkbox"/> Additional Conditions |
| <input type="checkbox"/> Minor Site Plan | <input type="checkbox"/> Denied |
| <input type="checkbox"/> Major Site Plan, Preliminary | |
| <input type="checkbox"/> Major Site Plan, Amended Preliminary | Application No. <u>PB15-09</u> |
| <input type="checkbox"/> Major Site Plan, Final | Applicant: Marilton 73 Restaurant, LLC |
| <input checked="" type="checkbox"/> Bulk Variances | 15 Presidential Drive |
| | Berlin, New Jersey 08009 |

Owner: Marilton 73 Restaurant, LLC
15 Presidential Drive
Berlin, New Jersey 08009

Block 20, Lot 1 (P.I.Q.)
Action: November 12, 2015
Memorialized: December 3, 2015
Plan Name: Marilton 73 Restaurant

WHEREAS, the applicant has applied to the Evesham Township Planning Board (ETPB) for the following primary approvals: Minor Subdivision Approval to create two commercial lots for financing purposes at the shopping center located at 200 Route 73 North in order to provide for the demolition of an existing restaurant and the construction of a new restaurant on the property identified as Block 20, Lot 1;

WHEREAS, the applicant has applied for the following ancillary approvals:

(a) A variance from Section 160-68.1(F) to permit a lot with street frontage of 149.44 feet where 150 feet is required; and

WHEREAS, the application was considered by the ETPB on November 12, 2015; (1) in sworn testimony of Peter Lazaropoulos, P.E. P.P., the applicant's engineer and planner, and Hristos Kolovos on behalf of the corporate applicant; and (2) by the legal representation of Jeffrey I. Baron, Esquire.

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

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

- (X) 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

The following documents and exhibits were incorporated herein by reference:

- (a) A Township of Evesham Land Development Application filed September 23, 2015, prepared by Jeffrey I. Baron, Esquire, consisting of twelve (12) pages;
- (b) A Township of Evesham Land Development Checklist filed September 23, 2015;
- (c) A Plan entitled, "Minor Subdivision Plan," dated February 1, 2015, last revised September 17, 2015, prepared by Peterman Maxcy Associates, LLC, consisting of one (1) page;
- (d) A Plan entitled, "Plan of Survey and Partial Topography," dated February 11, 2015, last revised September 17, 2015, prepared by Peterman Maxcy Associates, LLC, consisting of one (1) page; and
- (e) A Plan entitled, "Preliminary and Final Site Plan Proposed Restaurant," dated September 9, 2015, prepared by P.Lazaropoulos, AIA, PE, PP, Leed AP, consisting of ten (10) pages;
- (f) A Plan entitled "Conceptual Floor Plans Proposed Restaurant," dated September 9, 2015, prepared by P.Lazaropoulos, AIA, PE, PP, Leed AP, consisting of two (2) pages;
- (g) A Report entitled, "Traffic Engineering Assessment," dated September 18, 2015, prepared by Shropshire Associates, LLC, consisting of five (5) pages plus appendices; and
- (h) A Report entitled, "Drainage Report," dated August 10, 2015, prepared by NOTIS Architects/Engineers, consisting of three (3) pages plus appendices; and
- (i) Unrecorded parking and reciprocal cross-access easements prepared by Jeffrey I. Baron, Esquire; and

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

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

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

- (X) Engineer report(s) dated November 10, 2015;
- () Planner report(s) dated _____;
- () Traffic Consultant report(s) dated _____;
- () Environmental Consultant Report dated _____;
- (X) Evesham Township Fire Marshal Report(s) dated October 8, 2015;
- () Other: _____;

Copies of which are attached hereto and made a part hereof as Exhibits A-B; and

WHEREAS, the ETPB has made the following Findings of Fact and Conclusions:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The applicant is the new owner of the subject 3.25 acre property located at 200 North Route 73 and identified as Block 20, Lot 1 on the Evesham Township Tax Map (the "P.I.Q."). The P.I.Q. is located in the C-1 Commercial zoning district and the Evesham Crossroads Overlay ("EVCO") zone. The site contains a commercial retail shopping center and two stand-alone restaurant buildings, including a Chick-Fil-A drive-thru restaurant and the former Carollo's restaurant. The applicant has applied for minor subdivision approval to subdivide Lot 1 into two commercial lots, including proposed Lot 1.01 containing 1.63 acres, and proposed Lot 1.02 containing 1.62 acres, with one restaurant building to be located on each new lot. The purpose of the subdivision is to enable the applicant to procure financing in order to demolish the defunct Carollo's restaurant building and to construct a new restaurant building in the same location. The applicant has not applied for site plan approval for the contemplated demolition/construction but understands and agrees that the applicant will must obtain site plan approval prior to performing any such construction and/or development.

2. Hristos Kolovos testified on behalf of the corporate applicant. He is the one of the owners of the corporate applicant. He also owns Luciens banquet facility in Berlin Borough. Mr.

Kolovos testified that the applicant purchased the P.I.Q. out of the bankruptcy proceedings of the prior owner. The applicant wants to demolish the now-defunct Carollo's restaurant building and rebuild a new restaurant. In order to do so, the applicant must separate the lot into 2 lots to be able to obtain financing for the demolition and construction work. One of the proposed new lots will contain the Chick-Fil-A building which business will continue to operate pursuant to a long-term lease between the applicant and Chick-Fil-A. The other lot will contain the Carollo's restaurant building until the applicant obtains the necessary approval to demolish it and construct a new restaurant building. Mr. Kolovos indicated that if the subdivision is approved and the applicant is able to secure the necessary financing, the applicant will file a site plan application for the contemplated improvements and/or development work.

3. Peter Lazaropoulos, PE, PP, the applicant's engineer, planner and architect, testified on behalf of the applicant. Mr. Lazaropoulos was qualified as an expert in the fields of engineering, planning and architecture and he testified under oath. Mr. Lazaropoulos introduced Exhibit A-1, which was a colorized rendition of the minor subdivision plan dated September 19, 2015. He testified that the proposed lot line placement corresponded with the lease line in the long-term lease with Chick-Fil-A and also with the Planning Board approvals previously granted for the Chick-Fil-A restaurant. For this reason, the proposed lot with the Carollo's restaurant building would only have 149.44 feet of street frontage along Route 73 where 150 feet was required, thereby requiring a *de minimis* variance. Mr. Lazaropoulos also indicated the 2 new lots would be owned by separate albeit related entities and that both lots would be subject to a cross-parking easement and reciprocal cross-access easement. Mr. Lazaropoulos indicated the applicant requested a waiver from the Environmental Impact Study requirements of the Code because the site is fully-developed and the subdivision does not impact environmental concerns. He also reviewed the variance criteria in support of the street frontage

deviation. He opined that the existing development on the P.I.Q. created a hardship with respect to the applicant's ability to satisfy the street frontage requirement. He opined further that since the deviation was only about 7 inches, it was so minimal it would not negatively impact the public good. Likewise, he opined that granting the variance would result in a substantial detriment to the zone plan or zoning ordinance.

4. The ETPB reviewed and considered the November 10, 2015 report of the ETPB engineering consultant, prepared by Chris R. Rehmann, P.E., C.M.E. (Exhibit "A").

5. The applicant agreed, as a condition of approval, to fully comply with and satisfy all of the comments set forth in the ETPB Engineer's November 10, 2015 report.

6. The ETPB reviewed and considered the October 8, 2015 memorandum from the Evesham Township Fire Marshal (Exhibit "B").

7. The applicant agreed, as a condition of approval, to fully comply with and satisfy all of the comments set forth in the Evesham Township Fire Marshal's October 8, 2015 memorandum.

8. The ETPB opened the hearing on this application to the public and no members of the public testified as to the application.

WHEREAS, upon motion duly made and seconded to grant the application for minor subdivision approval, together with the requested variance, the Board voted in favor of granting the application subject to certain conditions mentioned hereinafter; and

WHEREAS, in support of its determination, the Board found that the street frontage variance was necessitated due to the fact that the lot was fully developed and as a result of the location of the lawfully existing structures thereon pursuant to Section (c)(1) of the Municipal Land Use Law; and

WHEREAS, in support of its determination, the Board found further that the variance for a 7-inch deviation from the street frontage requirement of the Code posed no detriment to the public good

and could be granted without substantially impairing the intent and purpose of the zoning plan and the C-1 and EVCO zoning ordinances.

NOW, THEREFORE, BE IT RESOLVED by the Evesham Township Planning Board that the said application for minor subdivision approval, together with the requested variance to permit one of the lots to have street frontage of 149.44 feet where 150 feet is required, shall be and is hereby granted specifically subject, however, to the testimony, representations and stipulations of the applicant, its attorney and witnesses at the time of the hearing and is further subject to the following conditions:

SPECIFIC CONDITIONS OF APPROVAL

1. This approval grants a street frontage variance to permit 149.44 feet of street frontage where 150 feet is required.
2. The applicant agreed, as a condition of approval, to record cross-access and cross-parking easements between both new lots which are created as a result of the subdivision approval granted herein. The ETPB recognizes that the ETPB Solicitor has reviewed and approved the form thereof. The applicant shall submit recorded copies of both easements to the ETPB Secretary and Solicitor prior to the issuance of any building and/or construction permit for any future development of the P.I.Q. In the event the applicant seeks relief from this condition of approval, the applicant shall be required to file an appropriate application with the Board regarding same.
3. The applicant shall fully comply with and satisfy all of the items set forth in the ETPB Engineer's report dated November 10, 2015 (Exhibit "A").
4. The applicant shall fully comply with and satisfy all of the comments and recommendations of the Evesham Township Fire Marshal's memorandum dated October 8, 2015 (Exhibit "B").

5. The approvals herein are limited to the minor subdivision application and associated variance that is the subject hereof. The applicant shall be responsible for obtaining site plan approval for any future development of the site to the extent required by law.

6. All other terms and conditions of any previous approvals granted for the P.I.Q. shall remain in full force and effect and applicant is advised nothing herein shall be construed as a waiver of the requirements of Evesham Township Code site plan requirements as applicable to the applicant's continued use of the P.I.Q.

GENERAL CONDITIONS OF APPROVAL

1. 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 this decision is memorialized (Code Section 15-19). A proof of publication shall be filed with the Administrative Officer of the ETPB within thirty (30) days of the date the decision is memorialized.

2. The applicant shall promptly pay any professional staff fees billed, in excess of the required application escrows.

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

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

5. The applicant shall be required to obtain all outside agency approvals

6. 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 \$_____.

7. Any improvement(s) to be constructed as a result of the ETPB 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.

8. Unless specifically waived in whole or in part and noted in the Specific 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 final acceptance of the improvements.

9. If the above application involves the granting of a final subdivision or final site plan approval, the Chairperson and Secretary of the ETPB 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.

10. 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) plans 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 of one thousand dollars (\$1,000.00) or less, a title search indicating marketable title shall be sufficient, provided said search is certified by a title insurance company authorized to do business in the State of New Jersey.

11. 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 describes 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 ETPB.

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

13. As part of the 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 ETPB Engineering Consultant.

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

15. 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.

16. The Board presumes that the applicant's application, all exhibits, maps and other documents submitted and relied on by the applicant, are true and accurate representations of the facts relating to the applicant's request for relief. In the event that it appears to be the Board, on reasonable grounds, that such Application, exhibits, maps and other documents submitted are not accurate, are materially misleading or are the result of mistake, and the same had been relied upon by the Board as they bear on facts which were essential in the granting of the relief sought by the applicant, the Board may rescind its approval and rehear the Application, either upon application of an interested party or on its own motion, when unusual circumstances so require, or where a rehearing is necessary and appropriate in the interests of justice.

17. At any time after the adoption of this resolution of memorialization, should a party of interest appeal to the Board for an order vacating or modifying any term or condition as set forth herein, upon proper showing of a materially misleading submission, material misstatement, materially inaccurate information, or a material mistake made by the applicant, the Board reserves the right to conduct a hearing with the applicant present, for the purpose of fact-finding regarding the same. Should the facts at said hearing confirm that there had been a material fault in the Application, the Board shall take whatever action it deems appropriate at that time, including but not limited to a rescission of its prior approval, a rehearing, a modification of its prior approval, or such other action as appropriate.

18. The applicant shall indemnify and hold the Township harmless from any claims whatsoever which may be made as a result of any deficiency in the Application, or as to any representations made by the applicant, including but not limited to proper service and notice upon interested parties and publication of the notice of public hearing in this matter in accordance with the law.

19. The relief as granted herein is subject to the discovery of any and all deed restrictions upon the Subject Property which had not been known or had not been disclosed to the Board, but which would have had a materially negative impact upon the Board's decision in this matter had they been so known, or so disclosed.

20. The applicant must obtain approvals from any and all other governmental and/or public agencies as required, whether federal, state, county or local, over which the Board has no control but which are necessary in order to finalize and/or implement the relief being granted herein, as well as any construction that may be a part of said relief. The applicant is solely responsible for fore determining which governmental and/or public agencies, if any, such approvals are required of. The applicant is

further required to submit a copy to the Board's Secretary of all approvals and/or denials received from such outside agencies, with a copy thereof to the Board's Solicitor, Engineer and Planner.

21. The applicant must maintain an escrow account with the Township and pay the costs of all professional review and other fees required to act on the Application, pursuant to the applicable sections of the Township's land development ordinances, zone codes and any other applicable municipal codes, and the N.J. Municipal Land Use Law. The applicant's escrow account must be current prior to any permits being issued, or construction or other activity commencing on the approved project.

22. The applicant must obtain and all other construction or other municipal permits required with respect to the relief as granted herein.

23. The Applicant agrees, as a condition of approval, that any Resolution approving an application for preliminary and/or final major subdivision and/or site plan review will not be memorialized or adopted until the Applicant and the Township execute a Developers Agreement in a form reviewed by the ETPB Solicitor and approved by the Evesham Township Solicitor, to be recorded in the Office of the Burlington County Clerk with the cost of recording the Developers Agreement or a Memorandum thereof to be paid by the Applicant. A recorded copy of the Developers Agreement shall be provided to the ETPB Secretary and Evesham Township Clerk at the time of memorialization and adoption of any approving Resolution and prior to issuance of any building and/or construction permits for the P.I.Q.

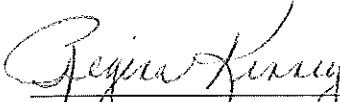
24. This minor subdivision approval shall elapse unless within 190 days from the date the approval has been granted, the applicant either filed a plat in conformity with the approval, and the "Map Filing Law" (N.J.S.A. 46:23-99 et seq.) or records appropriate Deeds with the Burlington County Clerk which clearly describes 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 Evesham Township Planning Board.

BE IT FURTHER RESOLVED, that certified copies of this Resolution shall be forwarded to the applicant, Township Clerk, Township Construction Official, Township Tax Assessor and Township Zoning Administrative Officer.

RECORD OF VOTE FOR ACTION TAKEN						
BOARD	AYE	NAY	Abstain	Absent	Motion Made By	Second
Alicia Marrone, Chairperson	X					
Mayor Randy S. Brown/Robert DiEnna, Mayor's Designee	X					
Councilman, Steven Zeuli				X		
William McGoey, Vice Chairperson	X					
Jay Parikh, Alternate Vice Chairperson	X				X	
Jerry Menichini				X		
Ila Vassallo				X		
Paul Cortland	X					X
Dominick Marandolo				X		
Sandy Student				X		
Jeff Foster				X		

I, Regina Kinney, Secretary to the Planning Board of the Township of Evesham, County of Burlington, State of New Jersey, do hereby certify that the foregoing is a true and correct copy of the action taken by the said Board at a meeting held at the Municipal Building, 984 Tuckerton Road, Marlton, New Jersey, on the 12th day of November, 2015.


 REGINA KINNEY, Secretary
 EVESHAM TOWNSHIP PLANNING BOARD

RECORD OF VOTE ON RESOLUTION

BOARD	AYE	NAY	Abstain	Absent	Motion Made By	Second
Alicia Marrone, Chairperson						
Mayor Randy S. Brown/Robert DiEnna, Mayor's Designee	X					X
Councilman, Steven Zeuli						
William McGoey, Vice Chairperson	X					
Jay Parikh, Alternate Vice Chairperson						
Jerry Menichini						
Ila Vassallo						
Paul Cortland	X				X	
Dominick Marandolo						
Sandy Student						
Jeff Foster						

I, Regina Kinney, Secretary to the Planning Board of the Township of Evesham, County of Burlington, State of New Jersey, do hereby certify that the foregoing is a true and correct copy of a Resolution adopted by the said Board at a meeting held at the Municipal Building, 984 Tuckerton Road, Marlton, New Jersey, on the 3rd day of December, 2015.



 REGINA KINNEY, Secretary
 EVESHAM TOWNSHIP PLANNING BOARD

RESOLUTION NO. 15-09EX

TOWNSHIP OF EVESHAM

PLANNING BOARD

RE: APPLICATION NO. PB 15-09EX

- Minor Subdivision - Extension
- Major Subdivision Preliminary
- Major Subdivision Final
- Minor Site Plan
- Major Site Plan, Preliminary
- Major Site Plan, Amended Preliminary
- Major Site Plan, Final
- Bulk Variances

- Approved
- General Conditions
- Additional Conditions
- Denied

Application No. PB15-09EX

Applicant: Route 73 Property, LLC
15 Presidential Drive
Berlin, New Jersey 08009

Owner: Route 73 Property, LLC
15 Presidential Drive
Berlin, New Jersey 08009

Block 20, Lot 1 (P.I.Q.)
Action: August 18, 2016
Memorialized: September 15, 2016
Plan Name: Province/Chic-Fil-A

WHEREAS, the applicant has applied to the Evesham Township Planning Board (ETPB) for the following primary approval: Extension of Minor Subdivision Approval with Bulk Variance to create two commercial lots for financing purposes at the property located at 200 Route 73 North;

WHEREAS, the application was considered by the ETPB on August 18, 2016, by the legal representation of Jeffrey Brennan, Esquire.

WHEREAS, a public hearing was not required; or

WHEREAS, a public hearing was required and the ETPB 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

The following documents and exhibits were incorporated herein by reference:

(a) A Township of Evesham Land Development Application filed July 22, 2016, prepared by Jeffrey I. Baron, Esquire, consisting of eleven (11) pages;

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

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

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

- () Engineer report(s) dated _____;
- () Planner report(s) dated _____;
- () Traffic Consultant report(s) dated _____;
- () Environmental Consultant Report dated _____;
- () Evesham Township Fire Marshal Report(s) dated _____;
- () Other: _____;

WHEREAS, the ETPB has made the following Findings of Fact and Conclusions:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The applicant is the owner of the subject 3.25 acre property located at 200 North Route 73 and identified as Block 20, Lot 1 on the Evesham Township Tax Map (the "P.I.Q."). On November 12, 2015, the applicant received Minor Subdivision Approval with a Bulk Variance for lot frontage which approval was memorialized by Planning Board Resolution No. PB15-09, adopted on December 3, 2015. The applicant was delayed in filing a minor subdivision plat and/or minor subdivision deeds within the statutory period of 190 days due to issues with its professionals and outside agencies. The applicant requested an extension of approvals to a date sixty (60) days beyond the August 18, 2016 hearing date, or until October 17, 2016, to file and/or record a subdivision plat or subdivision deeds as required by law. The applicant's counsel confirmed that the applicant will comply with the prior

condition of approval set forth in Resolution No. PB15-09 requiring the applicant to submit subdivision deeds, if any, for review and approval of the ETPB Solicitor prior to recording same.

2. The ETPB opened the hearing on this application to the public and no members of the public testified as to the application.

WHEREAS, upon motion duly made and seconded to grant the application to extend the minor subdivision approval granted via Planning Board Resolution No. PB15-09 until October 17, 2016, the ETPB voted in favor of granting the application subject to certain conditions mentioned hereinafter; and

NOW, THEREFORE, BE IT RESOLVED by the Evesham Township Planning Board that the said application for extension of minor subdivision approval to October 17, 2016, shall be and is hereby granted specifically subject, however, to the testimony, representations and stipulations of the applicant, its attorney and witnesses at the time of the hearing and is further subject to the following conditions:

SPECIFIC CONDITIONS OF APPROVAL

1. The approval granted via Planning Board Resolution No. PB15-09 and the time to perfect said approval by filing a minor subdivision deed or plat with the Burlington County Clerk's Office is hereby extended to October 17, 2016.

2. The applicant shall submit copies of the proposed subdivision deeds and legal descriptions to the ETPB Solicitor and Engineer for review and approval prior to recording thereof.

3. All other terms and conditions of any previous approvals granted for the P.I.Q. shall remain in full force and effect and applicant is advised nothing herein shall be construed as a waiver of the requirements of Evesham Township Code requirements as applicable to the applicant's continued use of the P.I.Q.

GENERAL CONDITIONS OF APPROVAL

1. 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 this decision is memorialized (Code Section 15-19). A proof of publication shall be filed with the Administrative Officer of the ETPB within thirty (30) days of the date the decision is memorialized.

2. The applicant shall promptly pay any professional staff fees billed, in excess of the required application escrows.

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

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

5. The applicant shall be required to obtain all outside agency approvals

6. 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 \$_____.

7. Any improvement(s) to be constructed as a result of the ETPB 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.

8. Unless specifically waived in whole or in part and noted in the Specific 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 final acceptance of the improvements.

9. If the above application involves the granting of a final subdivision or final site plan approval, the Chairperson and Secretary of the ETPB 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.

10. 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) plans 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 of one thousand dollars (\$1,000.00) or less, a title search indicating marketable title shall be sufficient, provided said search is certified by a title insurance company authorized to do business in the State of New Jersey.

11. 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 describes 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 ETPB.

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

13. As part of the 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 ETPB Engineering Consultant.

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

15. 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.

16. The Board presumes that the applicant's application, all exhibits, maps and other documents submitted and relied on by the applicant, are true and accurate representations of the facts relating to the applicant's request for relief. In the event that it appears to be the Board, on reasonable grounds, that such Application, exhibits, maps and other documents submitted are not accurate, are materially misleading or are the result of mistake, and the same had been relied upon by the Board as they bear on facts which were essential in the granting of the relief sought by the applicant, the Board may rescind its approval and rehear the Application, either upon application of an interested party or on its own motion, when unusual circumstances so require, or where a rehearing is necessary and appropriate in the interests of justice.

17. At any time after the adoption of this resolution of memorialization, should a party of interest appeal to the Board for an order vacating or modifying any term or condition as set forth herein, upon proper showing of a materially misleading submission, material misstatement, materially inaccurate information, or a material mistake made by the applicant, the Board reserves the right to

conduct a hearing with the applicant present, for the purpose of fact-finding regarding the same. Should the facts at said hearing confirm that there had been a material fault in the Application, the Board shall take whatever action it deems appropriate at that time, including but not limited to a rescission of its prior approval, a rehearing, a modification of its prior approval, or such other action as appropriate.

18. The applicant shall indemnify and hold the Township harmless from any claims whatsoever which may be made as a result of any deficiency in the Application, or as to any representations made by the applicant, including but not limited to proper service and notice upon interested parties and publication of the notice of public hearing in this matter in accordance with the law.

19. The relief as granted herein is subject to the discovery of any and all deed restrictions upon the Subject Property which had not been known or had not been disclosed to the Board, but which would have had a materially negative impact upon the Board's decision in this matter had they been so known, or so disclosed.

20. The applicant must obtain approvals from any and all other governmental and/or public agencies as required, whether federal, state, county or local, over which the Board has no control but which are necessary in order to finalize and/or implement the relief being granted herein, as well as any construction that may be a part of said relief. The applicant is solely responsible for fore determining which governmental and/or public agencies, if any, such approvals are required of. The applicant is further required to submit a copy to the Board's Secretary of all approvals and/or denials received from such outside agencies, with a copy thereof to the Board's Solicitor, Engineer and Planner.

21. The applicant must maintain an escrow account with the Township and pay the costs of all professional review and other fees required to act on the Application, pursuant to the applicable sections of the Township's land development ordinances, zone codes and any other applicable

municipal codes, and the N.J. Municipal Land Use Law. The applicant's escrow account must be current prior to any permits being issued, or construction or other activity commencing on the approved project.

22. The applicant must obtain and all other construction or other municipal permits required with respect to the relief as granted herein.

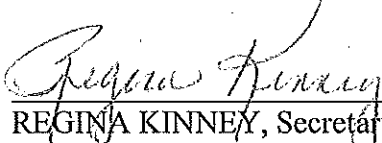
23. The Applicant agrees, as a condition of approval, that any Resolution approving an application for preliminary and/or final major subdivision and/or site plan review will not be memorialized or adopted until the Applicant and the Township execute a Developers Agreement in a form reviewed by the ETPB Solicitor and approved by the Evesham Township Solicitor, to be recorded in the Office of the Burlington County Clerk with the cost of recording the Developers Agreement or a Memorandum thereof to be paid by the Applicant. A recorded copy of the Developers Agreement shall be provided to the ETPB Secretary and Evesham Township Clerk at the time of memorialization and adoption of any approving Resolution and prior to issuance of any building and/or construction permits for the P.I.Q.

24. This minor subdivision approval shall elapse unless within 190 days from the date the approval has been granted, the applicant either filed a plat in conformity with the approval, and the "Map Filing Law" (N.J.S.A. 46:23-99 et seq.) or records appropriate Deeds with the Burlington County Clerk which clearly describes 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 Evesham Township Planning Board.

BE IT FURTHER RESOLVED, that certified copies of this Resolution shall be forwarded to the applicant, Township Clerk, Township Construction Official, Township Tax Assessor and Township Zoning Administrative Officer.

RECORD OF VOTE FOR ACTION TAKEN						
BOARD	AYE	NAY	Abstain	Absent	Motion Made By	Second
Alicia Marrone, Chairperson	X					
Mayor Randy S. Brown/Robert DiEnna, Mayor's Designee	X					
Councilman, Steven Zeuli	X					
William McGoey, Vice Chairperson						
Jay Parikh, Alternate Vice Chairperson	X				X	
Jerry Menichini	X					
Ila Vassallo						
Paul Cortland	X					X
Sandy Student						
Jeff Foster	X					

I, Regina Kinney, Secretary to the Planning Board of the Township of Evesham, County of Burlington, State of New Jersey, do hereby certify that the foregoing is a true and correct copy of the action taken by the said Board at a meeting held at the Municipal Building, 984 Tuckerton Road, Marlton, New Jersey, on the 18th day of August, 2016.


 REGINA KINNEY, Secretary
 EVESHAM TOWNSHIP PLANNING BOARD

RECORD OF VOTE ON RESOLUTION

BOARD	AYE	NAY	Abstain	Absent	Motion Made By	Second
Alicia Marrone, Chairperson	X					
Mayor Randy S. Brown/Robert DiEnna, Mayor's Designee	X					X
Councilman, Steven Zeuli	X				X	
William McGoey, Vice Chairperson						
Jay Parikh, Alternate Vice Chairperson						
Jerry Menichini	X					
Ila Vassallo						
Paul Cortland						
Sandy Student						
Jeff Foster	X					

I, Regina Kinney, Secretary to the Planning Board of the Township of Evesham, County of Burlington, State of New Jersey, do hereby certify that the foregoing is a true and correct copy of a Resolution adopted by the said Board at a meeting held at the Municipal Building, 984 Tuckerton Road, Marlton, New Jersey, on the 15th day of September, 2016.



 REGINA KINNEY, Secretary
 EVESHAM TOWNSHIP PLANNING BOARD

RESOLUTION NO. PB 18-01

TOWNSHIP OF EVESHAM

PLANNING BOARD

RE: APPLICATION NO. PB 18-01

- | | |
|---|---|
| <input type="checkbox"/> Minor Subdivision | <input checked="" type="checkbox"/> Approved |
| <input type="checkbox"/> Major Subdivision
Preliminary | <input checked="" type="checkbox"/> General Conditions |
| <input type="checkbox"/> Major Subdivision
Final | <input checked="" type="checkbox"/> Additional Conditions |
| | <input type="checkbox"/> Denied |

- Minor Site Plan
- Major Site Plan, Preliminary
- Major Site Plan,
Amended Preliminary
- Major Site Plan, Final
- Major Site Plan, Amended Final
- Bulk Variances
- Submission Waivers
- Design Waivers

Application No. PB 18-01
Applicant: Route 73 Property, LLC
15 Presidential Drive
Berlin, New Jersey 08009

Owner: Route 73 Property, LLC
15 Presidential Drive
Berlin, New Jersey 08009

Block 20, Lot 1.01
Action: May 3, 2018
Memorialized: June 7, 2018

WHEREAS, the applicant has applied to the Evesham Township Planning Board (“ETPB”) for the following primary approvals: Preliminary and Final Major Site Plan Approval to construct a 7,225 square foot diner style restaurant, together with associated site improvements, variances and waivers as outlined herein, to be constructed on the property identified as Block 20, Lot 1.01 on the Evesham Township Tax Map (P.I.Q.);

WHEREAS, the applicant has applied for waivers from the submission requirements to provide contours extending 200 feet beyond the site, to provide an updated Environmental Assessment Report and Environmental Impact Report and Cultural Resource Survey;

WHEREAS, the applicant also has applied for the following variances:

- (a) A variance from Section 160-68(1)(F) to permit a front yard setback from the right-of-way of 16 feet where a minimum of 20 feet is required (existing condition);
- (b) A variance from Section 160-68(1)(F) to permit front yard parking setback of 2 feet from Baker Boulevard and 12 feet from Route 73 where a minimum of 50 feet is required (existing condition);
- (c) A variance from Section 160-68(1)(F) to permit impervious coverage of 72.72% where a maximum of 60% is permitted;
- (d) A variance from Section 160-32(B)(6) to permit no side and rear yard pavement and parking setback where 15 feet is required (existing condition);
- (e) A variance from Section 160-32(D) to permit one loading space where two are required;
- (f) A variance from Section 160-32(D) to permit a loading space within the front yard area of Baker Boulevard where none are permitted;
- (g) A variance from Section 160-75(M) to permit three façade signs where two are permitted;
- (h) A variance from Section 160-75(M) to permit the aggregate area of façade signs to be 230 square feet where a maximum aggregate of 80 square feet is permitted; and
- (i) A variance from Section 160-75(M) to permit façade sign placement to be off-set where façade sign placement is to be flat against a wall.

WHEREAS, the application was considered by the ETPB on May 3, 2018, (1) in the sworn testimony of Hristos Kolovos and Bill Dovas on behalf of the owner/applicant, Peter Lazaropoulos,

PE, AIA, PP, the applicant's engineer and planner, and Nathan Mosley, PE, the applicant's traffic engineer; and (2) by the legal representation of Robert S. Baranowski, Jr., Esquire.

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

- (X) 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, the following documents and exhibits were reviewed and considered by the ETPB and are incorporated herein by reference:

(a) A Land Development Application, dated January 18, 2018, prepared by Robert S. Baranowski, Jr., Esquire, consisting of ten (10) pages;

(b) A Township of Evesham Land Use Board Application Checklist, dated January 17, 2018, prepared by Robert S. Baranowski, Jr., Esquire, consisting of two (2) pages;

(c) A Plan entitled, "Preliminary and Final Major Site Plan for Proposed Diner," prepared by P. Lazaropoulos AIA, PE, PP. LEED AP, dated December 19, 2017, consisting of eleven (11) pages;

(d) A Plan entitled, "Plan of Survey and Partial Topography, Block 20, Lot 1," prepared by Joseph W. Maxcy, PLS, dated February 11, 2015, last revised December 5, 2017, consisting of one (1) page;

(e) A Plan entitled, "Architectural Elevations and Floor Plans for Proposed Diner," prepared by P. Lazaropoulos AIA, PE, PP. LEED AP, dated December 19, 2017, consisting of two (2) pages;

(f) Commitment for Title Insurance, Scheduled B, prepared by Surety Title Company, LLC, undated, consisting of twenty-eight (28) pages;

(g) Letter from John A. Engle, PE, PP, Burlington County Planning Board Engineer, dated January 12, 2018;

(h) A plan entitled, "Existing Conditions," dated December 19, 2017, last revised May 2, 2018, marked as Exhibit A-1 at the time of the hearing;

(i) A color rendered site plan, dated December 19, 2017, last revised February 9, 2018, marked as Exhibit A-2 at the time of the hearing;

(j) A color rendered elevations plan, undated, marked as Exhibit A-3 at the time of the hearing; and

(k) A truck circulation plan, dated December 19, 2017, last revised May 2, 2018, marked as Exhibit A-4 at the time of the hearing.

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

WHEREAS, the ETPB has considered the application and the evidence and arguments submitted by the applicant in support thereof and the public comments were not made against any aspects of the application;

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

- (X) Planner report dated March 20, 2018;
- (X) Engineer report dated April 30, 2018;
- (X) Environmental Consultant reports dated February 23, 2018 and May 2, 2018;
- (X) Traffic Consultant report dated April 10, 2018;
- () Evesham Township Fire Marshal memorandum dated _____;
- () Other: _____;

Copies of which are attached hereto and made a part hereof as Exhibits A-D respectively;
and

WHEREAS, the ETPB has made the following Findings of Fact and Conclusions:

FINDINGS OF FACT AND CONCLUSIONS

1. The applicant is the owner of the P.I.Q. which property is situated within the Commercial-1 (C-1) and the Evesham Crossroad Overlay (EVCO) Zoning Districts. The applicant seeks preliminary and final major site plan approval to permit the construction of a 7,225 square foot diner style restaurant. The applicant also seeks various variances and submission waivers enumerated herein.

2. The applicant's attorney, Robert S. Baranowski, Jr. Esquire summarized the application. He indicated the applicant was seeking preliminary and final major site plan approval to construct a 7,225 square foot diner style restaurant, with variances and submission waivers.

3. Hristos Kolovos, one of the owners described the proposed diner/restaurant which will be named "Olga's Diner."

4. Bill Dovas, testified on behalf of the applicant. He testified that the proposed diner style restaurant would be open from 6:00 a.m. to 12:00 a.m. Monday through Sunday and would get deliveries twice a week between the hours of 7:00 a.m. and 11:00 a.m. The deliveries would be by cargo van or large box truck and not tractor-trailers. He also testified the trash and recycling would be picked up two to three times per week between the hours of 7:00 a.m. and 9:00 a.m. The trash and recycling containers will be in a fenced in trash/recycling enclosure. He testified there will be 65 to 75 employees total with 20 to 25 employees per shift and shift change is between 3:00 p.m. and 4:00 p.m.

5. Peter Lazaropoulos, PE, AIA, PP, the applicant's engineer and planner testified on behalf of the applicant. He was qualified as an expert in the fields of engineering and planning and he testified under oath. He introduced Exhibit A-1 which is an existing conditions plan, dated December 19, 2017, last revised May 2, 2018. He testified that the previous 14,000 square foot restaurant located on the P.I.Q. was demolished and the applicant is proposing an approximate 7,200 square foot diner style restaurant to be constructed in the approximate location of the previous building with added landscaping. He introduced Exhibit A-2 which is a color rendered site plan, dated December 19, 2017 and last revised February 9, 2018. He testified the applicant would be adding landscaping and that the P.I.Q. is ADA compliant. He also testified the applicant has requested variances due to site constraints for parking and building setbacks from Baker Boulevard. He introduced Exhibit A-3 which is a color elevations plan. He testified the building will have a brick and stone veneer and that the applicant will be utilizing the existing diner sign. The applicant will be adding landscaping, one loading zone and will be utilizing the existing basin on the southwest side of the P.I.Q. The applicant will be increasing the grass area on the P.I.Q., thereby reducing impervious coverage and the lighting will be upgraded to Township lighting standards. He also introduced Exhibit A-4 which is a truck circulation plan, dated December 19, 2017 and last revised May 2, 2018. He described the trash and delivery circulation on the P.I.Q.

6. Nathan Mosley, PE, the applicant's traffic engineer testified on behalf of the applicant. He was qualified as an expert in the field of traffic engineering and he testified under oath. Mr. Mosley summarized his traffic study. He testified that the size of the restaurant is proposed to be reduced from 13,400 square feet to approximately 7,200 square feet, thereby reducing the number of trips from that of the prior restaurant. The prior restaurant averaged 69 trips to and from the restaurant during peak hours. He testified that due to the volume of traffic

already existing on Route 73, there will be no change in the delay of ingress and egress on the site. The additional drive-thru lane at the Chick-Fil-A restaurant located adjacent to the P.I.Q. will help alleviate the one-site circulation at the Route 73 access. He further testified that the existing parking spaces are being reduced from 110 parking spaces to 108 parking spaces with the existing Chick-Fil-A having 66 of those spaces. The 108 parking spaces will accommodate patrons of both the proposed diner style restaurant and the Chick-Fil-A restaurant. He also testified that the applicant is seeking a Letter of No Interest from the DOT.

7. The ETPB reviewed and considered the March 20, 2018 report, prepared by the ETPB Planner, Leah Furey Bruder, PP, AICP, attached hereto as Exhibit "A."

8. The applicant agreed as a condition of approval to satisfy all of the comments set forth in the ETPB Planner's report, dated March 20, 2018.

9. The ETPB reviewed and considered the April 30, 2018 report, prepared by the ETPB Engineer, Chris R. Rehmann, PE, PLS, PP, CME, attached hereto as Exhibit "B."

10. The applicant agreed as a condition of approval to satisfy all of the comments set forth in the ETPB Engineer's report, dated April 30, 2018.

11. The ETPB reviewed and considered the February 23, 2018 and May 2, 2018 reports, prepared by the ETPB's Environmental Consultant, Behram Turan, PE, LSRP, attached hereto as Exhibit "C."

12. The applicant agreed as a condition of approval to satisfy all of the comments set forth the ETPB Environmental Consultant's reports, dated February 23, 2018 and May 2, 2018.

13. The ETPB reviewed and considered the April 10, 2018 report prepared by the ETPB Traffic Engineer, Stacey Arcari, PE, PP, CME, PTOE, attached hereto as Exhibit "D."

14. The applicant agreed as a condition of approval to satisfy all of the comments set forth in the ETPB Traffic Engineer's report, April 10, 2018.

15. The ETPB opened the hearing on this application to the public and no members of the public appeared in connection with the hearing.

WHEREAS, in support of its determination, the Board found that the purposes of the Municipal Land Use Law would be advanced by the requested deviations from the Zoning Ordinance requirements and the benefits of such deviations would substantially outweigh any detriment.

WHEREAS, The Board also determined that granting the variance would not substantially impair the intent and purposes of the Master Plan and Zoning Ordinance.

WHEREAS, upon motion duly made and seconded to grant the application for Preliminary and Final Major Site Plan approval to permit the construction of a 7,200 square foot diner style restaurant, together with the requested variances and waivers, the Board voted in favor of granting the application subject to certain conditions mentioned hereinafter.

NOW, THEREFORE, BE IT RESOLVED by the Evesham Township Planning Board that the said application for Preliminary and Final Major Site Plan approval to permit the construction of a 7,200 diner style restaurant, together with the requested variances and waivers, shall be and is hereby granted subject to the following conditions:

SPECIFIC CONDITIONS OF APPROVAL

1. The applicant shall fully comply with and satisfy all of the items set forth in the ETPB Planner's report dated March 20, 2018 (Exhibit "A"), except as may be otherwise set forth herein.

2. The applicant shall fully comply with and satisfy all of the items set forth in the

ETPB Engineer's report dated April 30, 2018 (Exhibit "B"), except as may be otherwise set forth herein and will clean the existing basins.

3. The applicant shall fully comply with and satisfy all of the items set forth in the ETPB Environmental Consultant's reports dated February 23, 2018 and May 2, 2018 (Exhibit "C"), except as may be otherwise set forth herein.

4. The applicant shall fully comply with and satisfy all of the items set forth in the ETPB Traffic Consultant's report dated April 10, 2018 (Exhibit "D"), except as may be otherwise set forth herein. The applicant will install additional signage and striping in lieu of alternative pavement block at the main access from Route 73 for visual contrast

GENERAL CONDITIONS OF APPROVAL

1. 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 this decision is memorialized (Code Section 15-19). A proof of publication shall be filed with the Administrative Officer of the ETPB within thirty (30) days of the date the decision is memorialized.

2. The applicant shall promptly pay any professional staff fees billed, in excess of the required application escrows.

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

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

5. The applicant shall be required to obtain all outside agency approvals

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

- (X) Mandatory Non-Residential Development fees pursuant to N.J.S.A. 40:55D-8.3.
- () Floor Area Ratio Fees in the amount of \$_____.

7. Any improvement(s) to be constructed as a result of the ETPB 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.

8. Unless specifically waived in whole or in part and noted in the Specific 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 improvements required to be bonded pursuant to law. The maintenance guarantee shall equal 15% of the cost of the bonded improvements and shall cover a period of two (2) years after final acceptance of the improvements.

9. If the above application involves the granting of a final subdivision or final site plan approval, the Chairperson and Secretary of the ETPB 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.

10. 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) plans 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 of one thousand dollars (\$1,000.00) or less, a title search indicating marketable title shall be sufficient, provided said search is certified by a title insurance company authorized to do business in the State of New Jersey.

11. 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 describes 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 ETPB.

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

13. As part of the 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 ETPB Engineering Consultant.

14. The applicant shall be required to execute a Developer's Agreement with the Township of Evesham prior to the issuance of any construction permit for work to be performed pursuant to this approval. The Developer's Agreement shall be in the form required and/or approved by the Township Solicitor.

15. 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.

16. The Board presumes that the applicant's application, all exhibits, maps and other documents submitted and relied on by the applicant, are true and accurate representations of the facts relating to the applicant's request for relief. In the event that it appears to be the Board, on reasonable grounds, that such Application, exhibits, maps and other documents submitted are not accurate, are materially misleading or are the result of mistake, and the same had been relied upon by the Board as they bear on facts which were essential in the granting of the relief sought by the applicant, the Board may rescind its approval and rehear the Application, either upon application

of an interested party or on its own motion, when unusual circumstances so require, or where a rehearing is necessary and appropriate in the interests of justice.

17. At any time after the adoption of this resolution of memorialization, should a party of interest appeal to the Board for an order vacating or modifying any term or condition as set forth herein, upon proper showing of a materially misleading submission, material misstatement, materially inaccurate information, or a material mistake made by the applicant, the Board reserves the right to conduct a hearing with the applicant present, for the purpose of fact-finding regarding the same. Should the facts at said hearing confirm that there had been a material fault in the Application, the Board shall take whatever action it deems appropriate at that time, including but not limited to a rescission of its prior approval, a rehearing, a modification of its prior approval, or such other action as appropriate.

18. The applicant shall indemnify and hold the Township harmless from any claims whatsoever which may be made as a result of any deficiency in the Application, or as to any representations made by the applicant, including but not limited to proper service and notice upon interested parties and publication of the notice of public hearing in this matter in accordance with the law.

19. The relief as granted herein is subject to the discovery of any and all deed restrictions upon the P.I.Q. which had not been known or had not been disclosed to the Board, but which would have had a materially negative impact upon the Board's decision in this matter had they been so known, or so disclosed.

20. The applicant must obtain approvals from any and all other governmental and/or public agencies as required, whether federal, state, county or local, over which the Board has no control but which are necessary in order to finalize and/or implement the relief being granted

herein, as well as any construction that may be a part of said relief. The applicant is solely responsible for determining which governmental and/or public agencies, if any, such approvals are required of. The applicant is further required to submit a copy to the Board's Secretary of all approvals and/or denials received from such outside agencies, with a copy thereof to the Board's Solicitor, Engineer and Planner.

21. The applicant must maintain an escrow account with the Township and pay the costs of all professional review and other fees required to act on the Application, pursuant to the applicable sections of the Township's land development ordinances, zone codes and any other applicable municipal codes, and the N.J. Municipal Land Use Law. The applicant's escrow account must be current prior to any permits being issued, or construction or other activity commencing on the approved project.

22. The applicant must obtain and all other construction or other municipal permits required with respect to the relief as granted herein.

BE IT FURTHER RESOLVED, that certified copies of this Resolution shall be forwarded to the applicant, Township Clerk, Township Construction Official, Township Tax Assessor and Township Zoning Administrative Officer.

RECORD OF VOTE FOR ACTION TAKEN						
BOARD	AYE	NAY	Abstain	Absent	Motion Made By	Second
Alicia Marrone, Chairperson						
Mayor Randy S. Brown/Robert DiEnna, Mayor's Designee	X					
Councilman, Steven Zeuli						
Jay Parikh, Vice Chairperson	X				X	
Jerry Menichini	X					
Dominick Mondì						
Paul Cortland	X					X
Jeff Foster						
Jay Levenson	X					
Ghanu Dave'	X					
Richard Maratea						

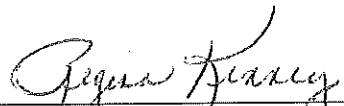
I, Regina Kinney, Secretary to the Planning Board of the Township of Evesham, County of Burlington, State of New Jersey, do hereby certify that the foregoing is a true and correct copy of the action taken by the said Board at a meeting held at the Municipal Building, 984 Tuckerton Road, Marlton, New Jersey, on the 3rd day of May, 2018.



 REGINA KINNEY, Secretary
 EVESHAM TOWNSHIP PLANNING BOARD

RECORD OF VOTE ON RESOLUTION						
BOARD	AYE	NAY	Abstain	Absent	Motion Made By	Second
Alicia Marrone, Chairperson						
Mayor Randy S. Brown/Robert DiEnna, Mayor's Designee						
Councilman, Steven Zeuli						
Jay Parikh, Vice Chairperson	X					X
Jerry Menichini	X					
Dominick Mondì						
Paul Cortland	X				X	
Jeff Foster						
Jay Levenson	X					
Ghanu Dave'						
Richard Maratea						

I, Regina Kinney, Secretary to the Planning Board of the Township of Evesham, County of Burlington, State of New Jersey, do hereby certify that the foregoing is a true and correct copy of a Resolution adopted by the said Board at a meeting held at the Municipal Building, 984 Tuckerton Road, Marlton, New Jersey, on the 7th day of June, 2018.



 REGINA KINNEY, Secretary
 EVESHAM TOWNSHIP PLANNING BOARD

**RESOLUTION NO. 2022-PB-06
EVESHAM TOWNSHIP PLANNING BOARD
IN THE MATTER OF EVESHAM TOWNSHIP
ROUTE 73 PROPERTY LLC
APPLICATION NO. P22-04
DECIDED ON JUNE 2, 2022
MEMORIALIZED ON JULY 21, 2022
MINOR SITE PLAN APPROVAL WITH
ANCILLARY VARIANCE**

WHEREAS, an application for minor site plan approval with ancillary variance and submission waiver relief has been made to the Township of Evesham Planning Board (hereinafter referred to as the “Board”) by Route 73 Properties LLC (hereinafter referred to as the “Applicant”) on lands known and designated as Lot 1.01 in Tax Block 20 as depicted on the Tax Map of the Township of Evesham (hereinafter “Property”), and more commonly known as 200 Route 73 North in the Commercial 1 (C-1) Zone District and Evesham Crossroads Overlay (EVCO) District; and

WHEREAS, a remote public hearing was held on June 2, 2022 after the Board determined it had jurisdiction; and

WHEREAS, the Applicant was represented by Robert S. Baranowski, Jr., Esq.; and

WHEREAS, a complete application has been filed, the fees as required by Township Ordinance have been paid, and it otherwise appears that proper notice has been published and the jurisdiction and powers of the Board have been properly invoked and exercised

NOW, THEREFORE, the Board makes the following findings of fact based on evidence presented at its public hearing, at which a record was made.

1. The subject Property contains 1.63 acres and is located on Route 73, north of its intersection with Baker Boulevard, within the Commercial-1(“C-1”) District and Evesham

Crossroads Overlay (“EVCO”) District. The subject Property is improved with a one-story, 7,225 s.f. diner/restaurant with associated parking, lighting, landscaping, utilities, and sidewalks.

2. The subject Property is located along Route 73 North. A Chick-fil-A restaurant is located to the west. These two restaurants share a driveway with right in-right out access from Route 73. The shared access to Route 73 is under the jurisdiction of the NJDOT. Additional access is from Baker Boulevard to the south.

3. The Applicant is seeking minor site plan approval to permit the construction of a 20 ft x 100 ft, 48 ft x 142 ft, and 48 ft x 94 ft solar arrays within the parking lot of the diner/restaurant. One light fixture/pole is proposed to be removed. The proposed solar arrays have under lights that will be used to provide the lighting required as a result of the pole removal. The Applicant plans to remove any dead trees and shrubs and landscape with new trees and shrubs.

4. Counsel for the Applicant, Robert S. Baranowski, Jr., Esq. explained that the Applicant is the owner of Olga’s Diner and is seeking a minor site plan with ancillary bulk variance relief. He explained that the Applicant is proposing to construct three (3) solar canopies in the parking lot of Olga’s Diner. Mr. Baranowski stipulated that the Applicant would comply with the Board professionals’ letters from 5/20/22 and 5/24/22. This would include, but not be limited to, landscaping. He further explained that there would be slight increases to the height of the canopies to comply with comments from the Fire Official.

5. Mr. Baranowski also explained that the Applicant was seeking ancillary variance relief for the following:

- a. A corner lot definition per the Evesham Township Zoning Ordinance is a lot on the junction of an abutting two or more intersecting streets where the interior angle of intersection does not exceed 135-degrees. Each corner lot shall have two front yards, one side yard and one rear yard, the side a rear yard to be designated at the time of application for a construction permit. Considering this definition, the rear yard is designated to be that lot long opposite the Route 73

frontage with the lot line at Chick-fil-A, opposite the Baker Boulevard frontage, considered a side yard. In accordance with §160-68.1F, a side yard setback is 20 ft and a rear yard setback is 50 ft. Thus, the project meets the setback requirement for the side yard setback but will require a variance from the rear yard setback. The Applicant is proposing to locate the solar panels 35 ft from the property line.

- b. Per §62-35F, the solar panel height shall not be subject to the maximum height regulations of the district, but their height shall not exceed 20% of the maximum height permitted. The permitted structure height in this zoning district is 40 ft; thus, the solar panel permitted height is 8 ft. The Applicant is proposing a solar panel height of 18 ft.

6. Mr. Baranowski stated that the permitted height is 20% of the primary structure, which would be approximately 8 feet in height. He explained that the Applicant had proposed a 14 foot height, but the Fire Official requested higher than 14 feet. Mr. Baranowski asserted that there are other solar arrays within the municipality at a similar height. He also stated that the rear setback is the same as the existing parking lot, which was permitted by the Board when the Diner was initially built. Mr. Baranowski also stated that the rear of the subject Property is 89 Baker Boulevard, which is a residential use. He asserted that a robust screen of a double fence and deciduous trees are located along the property line of 89 Baker Boulevard. He stated that the Applicant could supplement the buffer with more plantings if requested. Mr. Baranowski introduced a Google Streetview image of 89 Baker Boulevard as Exhibit A-1. Exhibit A-1 shows the buffer as described.

7. Mr. Baranowski also asserted that the canopies and solar arrays advance the Municipal Land Use Law (MLUL) by promoting renewable energy. He stated that the solar arrays are also inherently beneficial.

8. Mr. Baranowski then stated that the Applicant agreed with the comments regarding lighting. The Applicant would comply with using 3,000 Kelvin lights instead of the proposed 4,000

Kelvin lights. The lights would be set to turn off two (2) hours after closing. The Diner is open 8am-10pm seven (7) days a week.

9. The Applicant's Professional Solar Expert, John Scorsone, testified that he is the President of Solare America which has experience in installing solar array canopies, and is a "preferred vender" for Wawa. He testified that solar energy needs a large footprint, which is why the Applicant needs to use the parking lot. There will also be solar arrays on the roof of the Diner. The roof was designed for solar arrays when it was built in anticipation of the opportunity to generate all on-site energy. He testified that the total output of the solar arrays is 242kw, which is 90-95% of the Diner's power needs. He testified that the solar array would reduce CO2 by an equivalent to 10,000 trees.

10. Mr. Scorsone further testified that the canopies at the entrance and the back of the Diner will be "Y" shaped. The "Y" shape allows appropriate height for fire trucks. After comments from the Fire Official, he stated that the Applicant was now proposing a 25 foot height, which would be subject to review and approval of the Township Fire Official as a condition of approval. The "Y" shape is proposed for the two (2) canopies closest to the building. The third canopy is at the back of the parking lot and is a "L" shape.

11. Mr. Scorsone introduced a Solar Plans Package as Exhibit A-2.

12. In response to questions from the Board, Mr. Scorsone clarified that the height of the canopy is 14 feet from the base and then angles up to 25 feet. The initial proposal was to angle up to 22 feet, but the Fire Official requested 25 feet to allow space for a ladder from a fire truck to reach the roof of the building. The footprint is the same as had been proposed.

13. In response to further questions from the Board, Mr. Scorsone testified that the lighting would not affect the residential neighbors, rather it would be an improvement from the

currently lighting. The proposed lighting focuses the light downward. The canopies help block light from reaching the residential neighbors. The lights are LED and can be adjusted if there are complaints from neighbors.

14. Principal of the Applicant, Vasilious Dovas, added to Mr. Scorsone's testimony stating that there are currently no issues with the neighbors and that an employee of the Diner lives at 89 Baker Boulevard.

15. In response to further question from the Board, Mr. Scorsone testified that the Applicant could add some safety lights, if the Board requests, but that the lighting is sufficient for safety even at 3,000 Kelvin. The "Y" shape allows light to go outward, whereas the light under the "L" shape is more focused.

16. The Board Planner added that the issue with the initial proposed lighting plan was that the footcandles were high. The initial proposal had 2 footcandles, where 0.5 to 1.0 footcandles is preferred.

17. Mr. Scorsone continued to testify that the solar arrays would connect to the current utility. He stated that an agreement with PSE&G provides interconnectors for solar arrays. The inverters are already installed at the utility. Mr. Scorsone also testified that the solar arrays do not create any glare and absorb sunlight. He then stated that the landscaping plan would not change. The solar canopies allow enough sunlight for the landscaping. No parking is to be removed. He also stated that his company, Solare America, will manage the construction. The company is experienced having done 110 Wawas and the company will work with the Applicant on management. There will be minimal impact during construction and will last approximately three (3) weeks. There is also no change to the grading.

18. The Board Engineer, Rakesh Darji, PE, PP, CME, addressed the comments in his May 24, 2022 review letter. He stated that the concern for lighting was the intensity and glare. The lights are proposed to be under the canopy, which mitigates the impact on the neighboring properties. He was satisfied with the quantity of lights proposed and that they are adjustable. The Applicant will work with the Township on adjusting the lights so as to not effect the neighbors.

19. In response to questions from the Board Engineer, Mr. Scorsone testified that the construction would not impact Chick-fil-A. They will work with Chick-fil-A so as to not impact their operations. The construction would not block the access driveway. The construction would also stay within the parking spaces and the drive aisles will be maintained.

20. In response to further questions from the Board Engineer, Mr. Scorsone testified that the Applicant would submit a decommission plan to remove the solar panels. The solar panels have 30-year warranty and the lifespan of solar panels is 45 years. The solar panels may be replaced sooner than their lifespan as improvements in solar technology become available. The Applicant agreed to submit a decommission plan to remove the solar panels within 12 months of becoming non-operational.

21. The Board Planner, Scott Taylor, LLA, AICP, PP, stated that the majority of the comments in his review letter were addressed. He recommended that the trees currently on the parking islands be relocated elsewhere on the subject Property. Mr. Taylor also recommended changing the vegetation on the parking islands to river rock. He advised that vegetation on parking islands under solar canopies die within 3-4 years due to the lack of water and too much shade.

22. The Township Fire Official addressed the comments in his 5/12/22 review letter. He stated that the height of the lower part of the canopy is acceptable for travel of fire trucks. He stated that the maximum height of the angled canopy by the building of 25 feet was acceptable.

23. In response to questions from the Board, Mr. Dovas testified that he does not intend to continue outdoor eating. The outdoor eating was only due to COVID restrictions.

24. In response to question from the Board, Mr. Scorsone testified that there will not be any loss of parking. He would coordinate with the Applicant on timing of construction to have the least amount of impact on the business. No construction equipment or material will be stored on the site. His construction crew can install solar panels at a rate of 300 panels a day. The three (3) week timeframe includes installing the solar panels on the roof, which will be first panels installed.

25. In response to further questions from the Board, Mr. Scorsone testified that the lights will be recessed in the canopy. The structure of the canopy is standard galvanized finish, but it can be other colors to better fit with the existing "Marlton" lights and the aesthetic of the town. The Applicant agrees to work with the Township on using black or brownish finish so the aesthetics fit with the area.

26. In response to further questions from the Board, Mr. Dovas testified that the driveway access is shared with Chick-fil-A. Although he has yet to confer with Chick-fil-A about the Application, he did not anticipate any effect on their operation. Mr. Scorsone added that no construction equipment or materials will use Chick-fil-A's parking spaces. The shared access driveway will not be blocked as he intends to use the Baker Boulevard driveway to enter the site, not the Route 73 shared access driveway. The Board Attorney advised that Chick-fil-A were noticed as part of the 200-foot notice letters.

27. In response to further questions from the Board, Mr. Scorsone explained that the line on the plans marked "line to Chick-fil-A" is not the line for the drive thru. It is the electrical

line to Chick-fil-A. Handicapped parking spaces will also not be blocked. The trash enclosure will not be covered by the canopies and trash trucks can still access the trash enclosure.

28. In response to further questions from the Board, Mr. Scorsone testified that the power generated, and size of the solar arrays is determined by PSE&G. The Applicant requested 100% power from PSE&G, but was only approved for 90% of the power of the Diner. He explained that the power will over produce as the Diner will not use all of the power all the time. The solar arrays will constantly be producing power. When power is overproduced, the extra power goes to the grid and provide power to the neighboring properties.

29. No members of the public expressed an interest in the application.

NOW, THEREFORE, the Board makes the following conclusions of law, based on the foregoing findings of fact.

The application before the Board is a request for minor site plan approval with ancillary variances and submission waiver relief in regard to Lot 1.01 in Block 20 of the Tax Assessment Map of the Township of Evesham. The subject Property is located within the Commercial-1 (“C-1”) Zone District and Evesham Crossroads Overlay (“EVCO”) Zone District.

The Applicant is seeking minor site plan approval pursuant to N.J.S.A. 40:55D-46.1 along with ancillary variance relief pursuant to N.J.S.A. 40:555-70c.

The Board finds that it has enough information to consider the application and submission waiver relief is appropriate.

The Board finds that the Applicant has proposed a permitted use but requires variance relief. The Board will address the variance relief collectively. The Municipal Land Use Law, at N.J.S.A. 40:55D-70c provides Boards with the power to grant variances from strict bulk and other non-use related issues when the applicant satisfies certain specific proofs which are enunciated in

the Statute. Specifically, the applicant may be entitled to relief if the specific parcel is limited by exceptional narrowness, shallowness or shape. An applicant may show that exceptional topographic conditions or physical features exist which uniquely affect a specific piece of property. Further, the applicant may also supply evidence that exceptional or extraordinary circumstances exist which uniquely affect a specific piece of property or any structure lawfully existing thereon and the strict application of any regulation contained in the Zoning Ordinance would result in a peculiar and exceptional practical difficulty or exceptional and undue hardship upon the developer of that property. Additionally, under the c(2) criteria, the applicant has the option of showing that in a particular instance relating to a specific piece of property, the purpose of the act would be advanced by allowing a deviation from the Zoning Ordinance requirements and the benefits of any deviation will substantially outweigh any detriment. In those instances, a variance may be granted to allow departure from regulations adopted, pursuant to the Zoning Ordinance.

Those categories specifically enumerated above constitute the affirmative proofs necessary in order to obtain “bulk” or (c) variance relief. Finally, an applicant must also show that the proposed variance relief sought will not have a substantial detriment to the public good and, further, will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance. It is only in those instances when the applicant has satisfied both these tests, that a Board, acting pursuant to the Statute and case law, can grant relief. The burden of proof is upon the applicant to establish these criteria.

The Board finds that the Applicant has satisfied the positive criteria. The Applicant proposes to use alternate solar energy on the subject Property. The Board finds that the Municipal Land Use Law identifies solar facilities as an inherently beneficial use. The Township Ordinance further identifies solar facilities as a permitted use in the Evehsam Crossroads Overlay District.

The Board finds that a purpose of the Municipal Land Use Law is to promote utilization of renewable energy resources. This promotes the goals of planning as enumerated at N.J.S.A. 40:55D-2. The Applicant has therefore satisfied the positive criteria.

The Board further finds that the Applicant has also satisfied the negative criteria. The variance relief will not result in increases in traffic, noise, odors or density not already contemplated by the ordinance. The Board therefore finds that the grant of variance relief will not result in substantial detriment to the public good or substantial impairment to the zone plan or zoning ordinance. The negative criteria has therefore been satisfied.

The Board concludes that the positive criteria substantially outweighs the negative criteria and variance relief may be granted pursuant to N.J.S.A. 40:55D-70c(2).

With the exception of the above relief, the Applicant complies with all other zoning, site plan and design ordinance requirements. Minor site plan approval is therefore appropriate pursuant to N.J.S.A. 40:55D-46.1.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board that the application of the Township of Evesham for property known and designated as Lot 1.01 in Block 20 on the Tax Assessment Map of the Township of Evesham requesting land use relief and checklist waivers is determined as follows:

- A. Minor site plan approval pursuant to N.J.S.A. 40:55D-46.1;
- B. Variance relief pursuant to N.J.S.A. 40:55D-70c(2); and

IT IS FURTHER RESOLVED that the above approvals are granted subject to the following terms and conditions:

1. The development of this parcel shall be implemented in accordance with the plans submitted and approved.

2. The Applicant shall comply with any terms and conditions contained in any reports of the Board professionals as may be modified herein.

3. The Applicant represents that all its representations and stipulations made either by the Applicant or on its behalf to the Township of Evesham Planning Board are true and accurate and acknowledges that the Land Use Board specifically relied upon said stipulations in the Board's granting of approval. If any representation or stipulation is false, this approval is subject to revocation.

4. This approval is granted strictly in accordance with any recommendations set forth on the record by the Planning Board at the time of hearing on June 2, 2022.

5. The Applicant shall develop a landscaping plan subject to the review and approval by the Board's Professionals.

6. The Applicant shall provide revised plans for review with the height of the canopy at 25 feet subject to the review and approval of the Township Fire Official.

7. The Applicant shall coordinate with Chick-fil-A so as to not impact its business during construction.

8. The Applicant shall provide a decommission plan to the Board. The decommission plan shall require removal of solar panels within twelve (12) months of becoming non-operational.

9. The Applicant shall relocate the trees on the parking islands elsewhere on the subject Property or add to the buffer subject to the review and approval by the Board's Professionals.

10. Dead or dying trees shall be removed subject to the review and approval of the Board's Professionals.

11. Construction materials and equipment shall not be stored on the subject Property.

- 12. Payment of all fees, costs and escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board Secretary.
- 13. Certificate that taxes are paid current to date of approval.
- 14. Subject to all other applicable rules, regulations, ordinances and statutes of the Township of Evesham, County of Burlington, State of New Jersey or any other jurisdiction.

RECORD OF VOTE FOR ACTION TAKEN						
BOARD	AYE	NAY	Abstain	Absent	Motion Made By	Second
Gene Friedman, Chairperson	X					
Mayor Jaclyn Veasy	X					
Councilman Eddie Freeman, III	X					
Elizabeth Costello, Vice Chairperson	X				X	
Lisa Killion-Smith	X					X
Craig Higginbotham				X		
Dennis Mehigan				X		
Robert Sullivan	X					
David Touri	X					
Stephen Kavalkovich				X		
Paul Cortland				X		

I, Jennifer A. Newton, Secretary to the Planning Board of the Township of Evesham, County of Burlington, State of New Jersey, do hereby certify that the foregoing is a true and correct copy of the action taken by the said Board at a meeting held at the Municipal Building, 984 Tuckerton Road, Marlton, New Jersey, on the 2nd of June, 2022.



 Jennifer A. Newton, Secretary
 EVESHAM TOWNSHIP PLANNING BOARD

RECORD OF VOTE ON RESOLUTION						
BOARD	AYE	NAY	Abstain	Absent	Motion Made By	Second
Gene Friedman, Chairperson				X		
Mayor Jaclyn Veasy	X					
Councilman Eddie Freeman, III	X					
Elizabeth Costello, Vice Chairperson	X					
Patricia Everhart				X		
Craig Higginbotham				X		
Lisa Killion-Smith	X				X	
Robert Sullivan	X					
David Touri	X					X
Stephen Kavalkovich				X		
Victoria Smith				X		

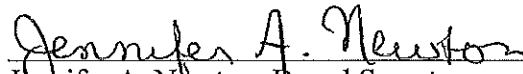
I, Jennifer A. Newton, Secretary to the Planning Board of the Township of Evesham, County of Burlington, State of New Jersey, do hereby certify that the foregoing is a true and correct copy of the action taken by the said Board at a meeting held at the Municipal Building, 984 Tuckerton Road, Marlton, New Jersey, on the 21st day of July, 2022.



 JENNIFER A. NEWTON, Secretary
 EVESHAM TOWNSHIP PLANNING BOARD

CERTIFICATION

The undersigned secretary certifies that the within Resolution was adopted by the Township of Evesham Planning Board on June 2, 2022 and memorialized herein pursuant to N.J.S.A 40:55D-10(g) on July 21, 2022.


 Jennifer A. Newton, Board Secretary

**EVESHAM TOWNSHIP ZONING BOARD
RESOLUTION #2025-ZB-23
ROUTE 73 PROPERTY LLC**

(X) d(1) Use Variance	Application # <u>Z25-10</u>
(X) Bulk Variances	Applicant: <u>Route 73 Property LLC</u>
(X) Approved	Owner: <u>Route 73 Property LLC</u>
(X) General Conditions\Additional Conditions	Property: <u>200 Route 73 N & 89 Baker Blvd.</u> Block: <u>20 & 20.01</u> Lot: <u>1.01 & 1</u> Zone: <u>C-1, EVCO and MD</u> Action: <u>September 15, 2025</u> Memorialized: <u>October 20, 2025</u>

WHEREAS, the Applicant has applied to the Evesham Township Zoning Board of Adjustment (“ETZBA” or “Board”) for the following approval(s) for the proposed expansion of a parking lot intended for Olga’s Diner’s employees use onto the adjacent Lot 1 of Block 20.1. The site is located in multiple zones, the diner being in the Commercial 1 (C-1) as well as the Evesham Crossroads Overlay (EVCO) District, and the residence is in the Medium Density Zone (MD). Parking lots are not a permitted use in the MD Zone, where half of the new proposed parking lot is to be located, necessitating the Applicant’s request for a d(1) use variance. The Applicant also seeks bulk variance relief on the two separate lots, also as identified below:

Block 20.01 Lot 1

1. Section 160-64 of the Ordinance lists the permitted principal uses in the Medium Density Zone. Parking Lots are not a permitted principal use. **A d(1) use variance is required.**
2. Section 160-13 of the ordinance requires a minimum side yard setback of 12.5 feet where 2.19 is proposed. **A bulk variance is required.**
3. Section 160-32(B)(5) and (6) requires a minimum parking setback of 25 feet, where 4 is proposed. **A bulk variance is required.**

Block 20 Lot 1.01

4. Section 160-68.1 F.1 of the ordinance requires a minimum front yard parking setback of 50 feet where 4 feet is proposed. **A bulk variance is required.**
5. Section 160-68.1 F.1 of the ordinance requires impervious cover to not exceed 60%, where 73.30% is proposed. **A bulk variance is required.**
6. Section 160-68 Attachment 1 of the ordinance requires a 30-foot landscape buffer to a residential property, where 15 is proposed. **A bulk variance is required. Applicant to confirm where this measurement was taken.**
7. Section 160-32(B)(5) and (6) requires a minimum parking setback of 25 feet, where 4 is proposed. **A bulk variance is required.**

WHEREAS, the application was considered by the Board on September 15, 2025; and

WHEREAS, a public hearing was required and the Board has considered that public comments were made by the public; and

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

WHEREAS, the Board has considered the application and the evidence and arguments submitted by the Applicant in support thereof; and

WHEREAS, the Board has considered the recommendations and testimony of its professional staff and the following reports:

- Review letter dated September 4, 2025 by Planning Board Planner, Richard Hunt, PP, AICP, of Alaimo Group, attached hereto as Exhibit A and incorporated herein by reference

WHEREAS, requirements necessary to approve the application have been met; and

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

NOW, THEREFORE, BE IT RESOLVED that the relief and approvals requested are hereby granted as follows:

Block 20.01 Lot 1

1. d(1) use variance relief from Section 160-64 of the Ordinance, Parking Lots as a permitted principal use in the Medium Density Zone.
2. Relief from Section 160-13 of the Ordinance which requires a minimum side yard setback of 12.5 feet where 2.19 is proposed.
3. Relief from Section 160-32(B)(5) and (6) which requires a minimum parking setback of 25 feet, where 4 is proposed.

Block 20 Lot 1.01

4. Relief from Section 160-68.1 F.1 of the ordinance which requires a minimum front yard parking setback of 50 feet where 4 feet is proposed.
5. Relief from Section 160-68.1 F.1 of the ordinance which requires impervious cover to not exceed 60%, where 73.30% is proposed.
6. Relief from Section 160-68 Attachment 1 of the ordinance which requires a 30-foot landscape buffer to a residential property, where 15 is proposed.
7. Relief from Section 160-32(B)(5) and (6) which requires a minimum parking setback of 25 feet, where 4 is proposed.

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 approvals hereby granted are made subject to the following **ADDITIONAL CONDITIONS OF APPROVAL**, and as further detailed herein, at the time of the hearing(s), in the professional review letter(s) identified and attached hereto as exhibit(s), and identified as follows:

1. Applicant agrees to all comments, requests and recommendations as listed in the Alaimo Group review letter dated September 4, 2025, including but not limited to the submission of an acceptable lighting plan, acceptable employee parking signage, and acceptable landscaping plan and acceptable privacy fencing plan and details at the time of site plan submission.
2. Applicant agrees as a condition of approval to secure preliminary and final site plan and subdivision approval and the Applicant also needs to secure the necessary approvals of all applicable outside agencies.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Applicant, Route 73 Property LLC, (hereinafter, "Applicant"), has applied for d(1) use variance and bulk variances for an anticipated minor subdivision and lot consolidation plan. The Applicant is proposing the expansion of a parking lot intended for Olga's Diner

employees use onto the adjacent Lot 1 of Block 20.01. The site is located in multiple zones, the diner being in the Commercial 1 Zone (C-1) as well as the Evesham Crossroads Overlay (EVCO) District and the residences in the Medium Density Zone (MD). Parking lots are not a permitted use in the MD Zone where half of the proposed parking lot is located, necessitating a use variance. The site has an address of 200 Route 73 & 89 Baker Boulevard, Marlton, New Jersey and as more fully particularly described as Block 20, Lot 1.01 and Block 20.01, Lot 1 on the Evesham Township Tax Map (hereinafter referred to as the "P.I.Q.").

2. The site is located along Route 73 North. A Chick Fil A restaurant is located to the west. These two restaurants share a driveway with right in-right out access from Route 73. The shared access to NJSH Route 73 is under the jurisdiction of the NJDOT. Additional access is from Baker Boulevard to the south. The parcel is located in the Highway Commercial (C-1) Zone within the Evesham Crossroads Overlay. Parcels to the north are zoned Residential with the eastern and southern properties in the C-1 district. The proposed newly consolidated lot will be in both the Commercial (C-1)/Evesham Crossroads Overlay (EVCO) zoning district as well as Medium Density (MD) zoning district.

3. Counsel for the Applicant, Peter Chacianas, Esquire, introduced the application to the Board and described the nature of the relief being sought as detailed herein, in the application material, in the Alaimo Group review letter attached, and in the marked exhibits identified below and all incorporated herein by reference. Counsel presented consistent with the application submission summary, attached hereto as Exhibit B and incorporated herein by reference.

4. The Applicant marked the following exhibits:

A-1 Colored site plan rendering

5. The Applicant's first witness was Hristos Kolovos, a representative of the owner and operator, he was sworn. He also testified consistent with the application summary attached hereto as Exhibit B and confirmed the relief being sought as detailed by Applicant's counsel and as listed herein. He noted the proposed new parking area will be for employee parking only and noted that there are two shifts, one beginning at 7:00 a.m. and the other at 3:00 p.m. He noted that the shift change time is a slow time for customers and that the area proposed for employee parking will allow safe, efficient and dedicated for parking during that time, with ingress and egress to the diner, by employees. He confirmed that the spaces will in fact be marked with signage that is acceptable to the Board Planner and Engineer and he also confirmed that the Applicant would agree as a condition of approval to return to the Board for preliminary and final site plan and subdivision approval. He also confirmed agreement with the Board Planner's review letter and all of the recommendations and requests contained therein as a condition of approval. He described the need for the additional parking given difficulties at the existing parking field in proximity to the diner. He noted that diner's operations and the Chick-Fil-A operations and the cross access and cross parking agreements in place. He noted they currently own the home and property at 89 Baker Boulevard. He provided additional operations testimony with regard to the diner and opening and closing times and shift change.

6. The Applicant's second witness was Peter Lazaropoulos, and he was recognized as an expert engineer and was sworn. He also provided testimony consistent with the application

submissions, the application summary, all the application material and the Board Planner review letter, all incorporated herein by reference. He provided specific and detailed testimony with regard to the nature of the proposed improvements and he explained the history of the improvements and developments at the P.I.Q. He noted that with the proposed new parking area there will be a small increase in impervious coverage and he also confirmed that the new parking will be used by employees only, with an entrance off of a new proposed entranceway on Baker Boulevard. He also agreed as a condition of approval that the Applicant would satisfy all of the Board Professional's request and recommendations with regard to lighting, fencing, stormwater management and landscaping at the time of site plan/subdivision submission.

7. The Applicant's third witness was Leah Furey Bruder, Professional Planner. She was sworn and qualified. She also provided testimony consistent with the application material, the application summary and the Board Planner review letter attached and incorporated herein by reference. She detailed her comprehensive review of items and material in conjunction with this application. She confirmed that in her expert opinion the 14 proposed new parking spaces will address the existing parking problem at the P.I.Q. for the diner with the least amount of impact and will meet the requirements of the zone. She confirmed that the Applicant wants to create additional parking to alleviate strain during peak periods. She noted that the Applicant will be maintaining the residential lot, albeit at a slightly smaller size. She identified and confirmed all of the variance relief being sought, as identified herein. She confirmed that the new access off of Baker Boulevard will be right in and right out. She described the nature of the use variance being to permit commercial parking on a residential lot and she also confirmed the proposed small increase in impervious coverage. She noted the buffers to be provided to the residential property and confirmed that in her professional opinion there would be no negative impact to the zone or Zone Plan. She reviewed and provided comprehensive testimony with regard to both the positive and negative criteria and the Applicant's burdens of proof for both the requested d(1) use variance and the bulk variances and confirmed that the Applicant can in fact, and has in fact, satisfied all of those necessary burdens. She confirmed that in her professional opinion there would be no substantial detriment to the public good or to the Town's Master Plan or Zone Plan and that the proposed improvements will promote the general welfare and safety, noting that landscaping and lighting will in fact enhance the P.I.Q. and that there will be no negative impact on the Township's Master Plan. She concluded that the proposed use will actually advance some goals and objectives in the Master Plan.

8. At the time of the hearing, Richard Hunt, PP, AICP, of Alaimo Group, the Board's Planner, identified his review letter dated September 4, 2025, attached hereto as Exhibit A and incorporated herein by reference, and testified consistent with the contents of his report. Mr. Hunt noted that the Applicant agreed to the recommendations, requests and comments contained in his review letter. He acknowledged the testimony of the Applicant's witness and confirmed that in his opinion the location for this additional parking is suitable for the proposed use. He noted that in his opinion the testimony provided supported the intent of the EVCO District and again confirmed that the Applicant agreed to his comments, requests and recommendations and noted that they will be addressed at the time of application for site plan and subdivision approval.

9. The matter was then opened to the Board for questions. Board member Masson asked if there would be a new driveway on Baker Boulevard and that was confirmed, for employee parking only with signage.

10. The matter was then opened to the public and there were public comments as follows:

a. Maria Heinrich, 3 Princess Avenue, and she was sworn. She expressed concerns about the proposed improvements and testified that it could negatively impact the neighborhood. She also expressed concern that the home at 89 Baker Boulevard is a rental property.

b. Judy Metzger, 7 Princess Avenue, she was also sworn. She expressed concern about trees being removed and also new trees being planted, and how long it will take those trees to become fully mature. She was also concerned about traffic on Baker Boulevard and the new driveway proposed. She did not feel that a new parking lot is needed.

11. Mr. Chacianas, Ms. Bruder and Mr. Lazaropoulous then attempted to address the concerns raised by the public during public comment and through the testimony of Ms. Bruder detailed that the area that is being proposed is the best and only place where parking can be located and that there will be fencing and landscaping in a manner acceptable to the Board Professionals, and that it represents a minor change with a very low impact to the neighborhood. She confirmed again that the Applicant will work with the Board's Professionals to address all landscaping, lighting and security at the time of site plan and subdivision submission.

12. Board member Morales then inquired as to the timing of making a request for mature trees and the Solicitor confirmed that can be addressed at the time of site plan and subdivision application, through the review and testimony of the Board Planner, Mr. Hunt. Board member Jafry inquired as to a clarification for the need for this additional parking. Mr. Kolovos responded and indicated that due to the Chick-Fil-A business, these 14 spaces on the diner's own property would be a significant benefit. Counsel for the Applicant confirmed again that Chick-Fil-A and Olga's have cross access and cross parking agreements, but in many instances customers choose to park at the more central area of the entire parcel. Board member Ganju inquired as to the number of tables at Olga's and the Applicant's Planner noted that calculations for parking requirements were in fact being met at the time of original approval. Vice Chair Carragher asked if any attempts had been made to have the Chick-Fil-A employees or customers use spaces on the north side of the property, and Applicant's counsel responded that the area being proposed for employee parking is the safest spot and the best spot for the diner dedicated employee parking.

13. Applicant requested a bifurcated vote on the d(1) use variance and then the bulk variances. As detailed below, the requested relief for both was in fact approved.

14. Based upon all the foregoing testimony, the application and other documents and the Board's familiarity with the P.I.Q., the Board finds that in regard to the P.I.Q., the purposes of the Municipal Land Use Law, N.J.S.A. 40:55D-2, would be advanced by the requested relief as detailed herein and that the benefits of the approval would substantially outweigh any detriment. Additionally, the Board finds that in regard to the P.I.Q., the positive criteria has been satisfied.

15. The Board further finds that the requested relief as detailed herein can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the Evesham Township Master Plan and Land Use Ordinances. The negative criteria has also been satisfied.

16. The Board, therefore, concludes that the approvals requested should be and hereby are granted to the P.I.Q. subject to the conditions set forth in this Resolution, at the meeting and as identified in the professional review letters referenced and attached.

On the application for a d(1) use variance, the foregoing action was taken by the ETZBA on September 15, 2025 approving the requested use variance, upon the motion to approve of Morales, seconded by Carragher with the vote on the motion being as follows:

AYE: Carragher, Ganju, Patel, Knecht and Morales

NAY: Jafry and Masson

The foregoing action was taken by the ETZBA approving the requested bulk variance relief as detailed herein on September 15, 2025 upon the motion to approve of Morales, seconded by Ganju with the vote on the motion being as follows:

AYE: Carragher, Ganju, Patel, Knecht and Morales

NAY: Jafry and Masson

The foregoing action was memorialized by the ETZBA on October 20, 2025 upon the motion of Carragher, seconded by Patel with the vote on the motion being as follows:

AYE: Carragher, Ganju, Knecht, Patel and Morales

NAY:

BE IT FURTHER RESOLVED that a certified copy of the memorialized Resolution be sent to Applicant's counsel/Applicant within ten (10) days of adoption. A brief notice of this decision should be published in the official newspaper of the Township.

CERTIFICATION

The undersigned Secretary of the ETZBA hereby certifies that the above is a true copy of Resolution #2025-ZB-23 adopted by the ETZBA on October 20, 2025.



JENNIFER A. NEWTON,
BOARD SECRETARY

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 Applicants' 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 Applicants 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 Applicants, the owner and any successors and/or assigns of either.

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

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

- Burlington County Planning Board
- Pinelands Commission

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

- Evesham Township Construction Code Official
- Evesham Township Director of Community Development
- Zoning Board Engineer
- 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 Applicants 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 \$(**to be calculated**).

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 Applicants, 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 Applicants have posted the required performance guarantee and the Applicants have 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 (\$1,000.00) 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 of approval has been granted the Applicants either files a plat in conformity with the approval and the "Map Filing Law" (N.J.S.A. 46:23-9.9, et seq.) or records a deed with the County Clerk which clearly describe 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 Applicants 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 Applicants shall provide a construction schedule as required by the Evesham Township Ordinances which must be satisfactory to the ETZBA Engineering Consultant.

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

17. The Applicants 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.

EXHIBIT "A"



September 4, 2025

Chair Rochelle Thomas and Board Members
Evesham Township Zoning Board
984 Tuckerton Road
Marlton New Jersey 08053

Re: Z 25-10
Olga's Diner
Employee Parking Lot
200 Route 73 North and Baker Blvd.
Commercial 1 Zone / Evesham
Crossroads Overlay (EVCO) District
/ Medium Density Zone
Blocks 20 & 20.01 Lots 1.01 & 1
***Bulk Variance Request
Planner's Report***
Our File No. A-1398-0037-000

Dear Chair Thomas and Board Members:

We have reviewed the submission package (2/4/25) and Site Plan for the 200 Route 73 North tract and are familiar with the site. The site consists of a one-story restaurant (Olga's Diner) and associated parking lot on Block 20 Lot 1.01, and a one-story residential dwelling on Block 20.01 Lot 1. The application is for the expansion of a parking lot intended for Olga's Diner employee use onto the adjacent lot 1 of Block 20.01. The site is located in multiple zones, the Diner being in the Commercial 1 zone (C-1) as well as the Evesham Crossroads Overlay (EVCO) District, and the residence in the Medium Density Zone (MD). Parking lots are not a permitted use in the MD zone, where half of the proposed parking lot is located.

Variance Requests:

Block 20.01 Lot 1

1. Section 160-64 of the Ordinance lists the permitted principal uses in the Medium Density Zone. Parking Lots are not a permitted principal use. **A use variance is required.**
2. Section 160-13 of the ordinance requires a minimum side yard setback of 12.5 feet where 2.19 is proposed. **A bulk variance is required.**
3. Section 160-32(B)(5) and (6) requires a minimum parking setback of 25 feet, where 4 is proposed. **A bulk variance is required.**

- Consulting Engineers -

Block 20 Lot 1.01

4. Section 160-68.1 F.1 of the ordinance requires a minimum front yard parking setback of 50 feet where 4 feet is proposed. **A bulk variance is required.**
5. Section 160-68.1 F.1 of the ordinance requires impervious cover to not exceed 60%, where 73.30% is proposed. **A bulk variance is required.**
6. Section 160-68 Attachment 1 of the ordinance requires a 30-foot landscape buffer to a residential property, where 15 is proposed. **A bulk variance is required. Applicant to confirm where this measurement was taken.**
7. Section 160-32(B)(5) and (6) requires a minimum parking setback of 25 feet, where 4 is proposed. **A bulk variance is required.**

Our Comments:

1. The applicant is requesting a variance related to MLUL 40:55D-70d, known as d. or use variances. As the Zoning Board is well aware, these variance requests may be granted based on proofs presented by the applicant, with determination that the proofs are met. The applicant must convince the Board of **all** of the following:
 - a) There are “special reasons” why the use should be permitted in a zone where it is not allowed under the Ordinance. The elements of “special reasons” are:
 - The proposed project carries out a purpose of the Zoning; or
 - Refusal to allow the project would impose on the applicant an undue hardship.
 - b) The proposed site is particularly suited for the proposed use.
 - c) An “enhanced quality of proof”
 - The variance being requested will not be inconsistent with the intent and purpose of the Master Plan and Zoning Ordinance.
 - There is a valid reason why the variance should be granted despite the fact that it is not permitted under the Zoning Ordinance.
 - d) An applicant for a “use variance” must also satisfy the “negative criteria”:
 - If the variance is granted there will not be a substantial detriment to the public good; and
 - The granting of the variance will not substantially impair the intent and purpose of the Zone Plan and Zone Ordinance.
2. The applicant is requesting variances related to MLUL 40:55D-70c, known as c. or bulk/dimensional variances. As the Zoning Board is aware, these variance requests may be granted based on proofs presented by the applicant, with determination that the proofs are met.

Firstly, the applicant must convince the Board one of the following is met:

- a) There is an undue hardship in requiring compliance with the ordinance relating to the peculiar physical condition or shape of the property; or
- b) There will be a benefit to the zoning per MLUL, and the benefit will substantially outweigh the detriment.

Secondly, the Board must be convinced there will not be a substantial detriment to the public good, and by granting the variance(s), there will not be substantial impairment to the intent and purpose of the Evesham zone plan and zoning ordinance.

3. Applicant to provide lighting plan for proposed parking area. Low Kelvin temperatures are recommended due to proximity to residential (2700K-3200K). Lights should have shields to screen from uplighting and glare.
4. Signage for the employee parking area is proposed. Applicant is to provide signage plan for proposed signage.
5. Applicant to provide testimony that new parking area will be for employee use only. Signage should be installed indicating as such.
6. Applicant to present safe pedestrian movements from the new parking lot to Olga's.
7. Applicant to provide landscaping plan. Applicant to coordinate plantings with our office.
 - a. A note is to be provided stating a post-construction landscape inspection may require additional plantings to achieve the performance objective for adequate landscaping screening.
 - b. Applicant should provide a six-foot-high solid fence along the property line adjacent to residential on Lot 1 and Lot 2 for the purposes of screening and capturing headlight glare on site.

Should you need more information, please call.

Sincerely,

ALAIMO GROUP



Richard Hunt, PP, AICP
Senior Project Manager

- Consulting Engineers -

Civil • Structural • Mechanical • Electrical • Environmental • Planners

RH/SS

cc: Evesham Township Zoning Board Members
Kevin Rijs, Director of Community Development
Matt Wieliczko, Esq., Board Solicitor
Jennifer Newton, Administrative Officer/Board Secretary, Evesham Township
Rakesh Darji, PE, PP, CME, Board Engineer
Stacy Arcari, PE, Board Traffic Engineer

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EXHIBIT "B"

ROUTE 73 PROPERTY LLC
200 ROUTE 73 NORTH AND 89 BAKER BOULEVARD
BLOCK 20, LOT 1.01 AND BLOCK 20.01, LOT 1
USE AND BULK VARIANCES

Route 73 Property LLC (the "Applicant") is the owner of the properties known as 200 Route 73 North and 89 Baker Boulevard, further identified as Block 20, Lot 1.01 and Block 20.01, Lot 1, respectively, on the Evesham Township Tax Map. 200 Route 73 North is currently improved with a restaurant, Olga's Diner, and is located within the Commercial ("C-1")/Evesham Crossroads Overlay ("EVCO") Zoning District of Evesham Township. 89 Baker Boulevard is currently improved with one single family dwelling and is located within the Medium Density ("MD") Zoning District of Evesham Township.

The Applicant seeks use and bulk variances to permit the construction of additional employee parking for Olga's Diner to be located partially on the existing Olga's Diner property as well as on a small portion of the 89 Baker Boulevard property (the "Application"). The Application proposes to provide an additional fourteen (14) parking spaces to serve the restaurant, which parking area will be reserved specifically and posted with signage for employee use only. The Application requires use variance relief pursuant to §160-64 as the additional parking will be located partially (7 spaces) in the C-1 Zoning District and partially (7 spaces) in the MD Zoning District where parking for a commercial purpose is not a permitted use within the MD Zoning District. The proposed parking area would also be screened and buffered to limit and mitigate any visual impact to the adjoining residential areas.

The plan as proposed would also require bulk variance relief that would be associated with setback areas, including setbacks to lot lines that would be the subject of a future subdivision application to follow. However, given that relief from certain dimensional requirements of the Code is integral to the use variance plan presented with the Application, the Applicant seeks consideration and approval of the following bulk variances with regard to this Application:

1. Regarding Block 20, Lot 1.01 within the C-1 Zoning District:
 - a. From §160-68.1F.1 to permit a 4 ft setback, where the minimum front yard parking setback is 50 ft.
 - b. From §160-68.1F.1 to permit 73.30% impervious coverage, where the maximum impervious coverage permitted is 60%.
 - c. From §160 Attachment 1 to permit a 15 ft landscaping buffer, where the minimum landscape buffer is 30ft to a residential property.
2. Regarding Block 20.01, Lot 1 within the MD Zoning District:
 - a. From §160-13 to permit a 2.19 ft accessory building side yard setback where the minimum setback is 12.5 ft.
 - b. From §160-32(B)(5) and (6), to permit a 4 ft setback, where the minimum parking setback is 25 ft.

The Applicant also seeks the continuance of previously approved bulk variances, without change, including:

3. Regarding Block 20, Lot 1.01 within the C-1 Zoning District:

- a. From §160-68.1.F.1 where the minimum front yard setback is 20 ft and 27.2 ft and 16 ft exists.
- b. From §160-32.D.2 where 2.74 loading spaces are required and 1 exists.
- c. From §160-68.1F.1 to permit a 4 ft setback, where the minimum front yard parking setback is 50 ft.

4. Regarding Block 20.01, Lot1 within the MD Zoning District:

- a. From §160 Attachment 11 where the minimum front yard setback is 30 ft, 29.7 ft exists.
- b. From §160 Attachment 11 where the minimum rear yard setback is 25 ft, 22.5 ft exists.

No further variances have been identified for this Application. However, the Applicant reserves the right to seek such other such variances, waivers, and other forms of relief as may be required as a result of the review and recommendations of the Township of Evesham Zoning Board of Adjustment (the “Board”) and/or its professional review staff.

This is a bifurcated Application, and the Board’s approval of the Application would remain subject to a minor subdivision and site plan application, to follow.

Prepared by:

Robert S. Baranowski, Jr., Esq.
Hyland Levin Shapiro LLP
6000 Sagemore Drive, Suite 6301
Marlton, NJ 08053
April 7, 2025