

APPEAL NO. BOA#17-5811
NORTHEAST PASSAGE
CORP.
PRELIMINARY AND FINAL
SITE PLAN WITH
WAIVERS AND VARIANCES
FOR CONVENIENCE STORE
BLOCK 344 LOTS 19 & 20
ZONE R-150 RESIDENTIAL
544 FOREST HILLS
PARKWAY & GRAND
CENTRAL PARKWAY
BERKELEY

RESOLUTION OF THE MEMORIALIZATION OF THE BERKELEY
TOWNSHIP BOARD OF ADJUSTMENT APPROVING A PRELIMINARY AND
FINAL SITE PLAN WITH WAIVERS AND VARIANCES
PURSUANT TO N.J.S.A. 40-55D-70(D)(C) 48-50 FOR BLOCK 344 LOTS 19 & 20

WHEREAS, an application has been made by Northeast Passage Corp., for the granting of Preliminary and Final Site Plan Approval pursuant to N.J.S.A. 40:55D-48-50 for Block 344 Lots 19 & 20., so as to permit the applicant to construct a convenience store 7-11.,

WHEREAS, the Berkeley Township Zoning Board of Adjustment has considered the application, and previously granted a use variance for the construction of a 2,940 sq. ft. convenience store, on December 13th 2017 and has held public hearings on 9th day of May 2018, and has taken testimony and received the report of its professional staff, the Zoning Board does hereby make the following findings of fact:

1. The applicant has a proprietary interest in the property.
2. The applicant has requested preliminary and final site plan approval with waivers in accordance with Ordinances of the Township of Berkeley.
3. The applicant was represented by H. Alton Neff Esq.
4. The applicant's Engineer/Planner P.E/P.P James Henry of Dynamic Engineering testified on behalf of the application.
5. The applicant's Traffic Engineer Nicholas Verdarese testified on behalf of the application.
6. The Board previously granted the approval for a Use Variance.. This application concerns only the final site plan approval for the Convenience Store 7-11.

7. There is a need for a convenience store in this area of the town.
8. The Board received reports from its engineer, John J. Mallon, P.E. CME, PP dated April 30th, 2018 and from its planner Melanie Adamson P.P. P.E.. CME of 5/4/18 and considered those reports and their comments at the hearing.
9. The Board heard testimony requesting certain waivers; a) from section 11-5.2. with regard to not erecting a fence exceeding 48 inches in height between a public street and building line. This is granted.
- b.) From section 12.1.1 plants must be trimmed to 2 ½ feet in height within 10 feet of roadways and 25 feet of intersections. The applicant proposes several trees in excess of this height. Applicant will comply.
- c.) From section 35-56.1 submittal of an environmental impact statement . This is granted.
- d.) From section 35-63.4 a safety island required for intermediate size parking areas. Applicant does not provide an adequate safety island with plantings Applicant will comply.
10. The applicants have satisfactorily answered the questions posed by the engineer and planner in their reports subject to conditions stated herein below being satisfied.
11. The applicant requested a variance pursuant to Section 35-48.1a. Buffer required: buffer areas are required on all sides in addition to required yards, none are provided. No buffer provided in addition to the side, rear and side yard property lines. The applicant's testimony was satisfactory that sufficient land could not be acquired therefore the hardship standard was met and the variances are granted.
12. The applicant requested a variance pursuant to Section 35-48.d 10 foot buffer is required in addition to any required yard areas, no buffer proposed. The Board recognized that the hardship standard was met and granted this variance as well.
13. The applicant requested a variance pursuant to Section 35-48.h.2 20 foot wide screening area is required where 10 feet is provided along Lots 8 & 18. The Board granted the variance.
14. The applicant requested a variance pursuant to Section 35-91.8 freestanding signs and directional signals not permitted in Residential Zone. The Board granted a monument sign in lieu of a freestanding sign
15. The applicant requested a variance pursuant to Section 35-91 wall mounted sign. Proposed wall mounted signs not permitted in residential zone This variance was granted.
16. There were numerous objectors, 10 who, spoke at the hearing the concerns ranged from safety of children crossing from the high school and middle school, to traffic concerns the belief that traffic would come to a standstill. In addition they complained about the possibility of crime and litter in the area.
17. The objectors produced no expert testimony and the core of their objections centered around the use variance which had been previously granted and engendered little opposition at the time.
18. The applicant submitted an amended traffic report as per the Board's December resolution. The applicant's traffic engineer answered all questions regarding the

amended report to the Board's satisfaction. Consequently all conditions of the use variance have been satisfied.

NOW, THEREFORE, be it resolved by the Zoning Board of Adjustment of the Township of Berkeley, County of Ocean, State of New Jersey, that the Board does hereby grant and approve Preliminary and Final site plan approval with the variances and waivers for Block 344 Lots 19 & 20 for a 2,940 square foot convenience store 7-11 subject to the following conditions:

1. Proof of approval and/or waivers from all agencies having jurisdiction including the New Jersey Department of Environmental Protection for Waterfront Development, Flood Plain Management, CAFRA, Ocean County Soil Conservation, Berkeley Township Sewerage Authority and Berkeley Township Municipal Utility Authority, Berkeley Township Board of Health, Berkeley Township Bureau of Fire Prevention, Berkeley Township Traffic Safety Officer. Should there be any changes to the plans as a result of the review and approval of the aforementioned agencies the applicant will submit said plan revisions to the Board professionals for review and determination of whether the applicant will need to reappear before the Board.
2. The matters agreed to by the Applicant as set forth in the Findings of Fact above are hereby made conditions of this approval and shall be binding on the Applicant.
3. Payment of all outstanding professional fees of the Board and Township.
4. All architectural plans and elevations shall conform to the site plan and vice versa.
5. The proposed retaining wall shall be removed.
6. The applicant shall comply with all conditions contained in the Board Engineer's Review letter of April 30, 2018 as well as the Planners letter of May 4, 2018.
7. The applicant shall add an inlet to the plans at the rear of the building along lot 8 and 18 block 344.
8. Applicant shall be responsible for the publication of this notice in newspaper designated for the publication of such notices by the Berkeley Zoning Board of Adjustment or Town Council.
9. The curb on the west side of the property shall be relocated 2 feet to east and setback 10 feet from the residential property line.
10. The trash container shall be enclosed with an opaque door.
11. The applicant shall plant 29 Leland Cypress trees and 1 Pin Oak along the rear and side property lines.
12. Deliveries shall only be made through the front door.
13. The site elevation shall be lowered with the removal of the retaining walls.
14. The applicant shall consolidate the lots.
15. The store will be open 24 hours per day 7 days per week.

16. Tractor Trailer deliveries from 7-11 shall be made two times per week between the hours of 9a.m. and 7p.m with no deliveries during the hours of 2-4pm when school is being dismissed.
17. The applicant shall construct an 8 foot fence with sound barrier along the side and rear of the premises.
18. Rubber mats shall be placed under the refuse container to muffle sound.
19. The wall mounted sign on east side of building and the wall mounted lights on the west side of the building shall be turned off between the hours of 10pm and 6am.
20. The applicant shall consult with his independent delivery companies to explore the feasibility of having their deliveries conform to the times which 7-11 deliveries are limited to.
21. There shall be no highway signage on parkway.
22. Applicant shall provide test borings.
23. Applicant shall provide security cameras and alarms. In addition applicant shall explore the feasibility of tying its alarm system to the police dept.
24. The base of the building shall have a brick or stone insert before plank light tan façade in lieu of the plank siding or plain concrete which will be on the lower portion of the structure.
25. Bollards shall be placed along the front of the building.
26. There shall be signage stating no idling of vehicles on site.
27. The applicant shall investigate the possibility of turning arrows on the north and south traffic light indicators with the County. The applicant shall discuss possible improvements with the County.
28. The applicant shall investigate the possibility of having its 7-11 deliveries made by box trucks rather than tractor trailers otherwise a WB-50 is the maximum size truck permitted.
29. Applicant shall erect a monument rather than a free standing sign.
30. Applicant shall instruct its deliveries (7-11) to come from Route 9.
31. 3d party box truck deliveries shall be exempted from the delivery time restriction.
32. The applicant shall explore the possibility of adding an left turn lane on Grand Central Parkway with the County.
33. Parking spaces that meet the ADA parking stall size requirements will be provided and be placed on the east side of the building.
34. The applicant expects not to have more than two employees per shift.
35. The applicant shall comply with sight triangles.
36. The HVAC system shall be located on the roof of the building and be screened via a parapet.
37. The applicant shall connect to municipal water and sewer.
38. In addition to the conditions of approval listed herein any and all conditions of prior resolutions (as adopted in 2017) will remain in force.
39. Applicant will provide a bike rack.

40. There shall be no cooking on the premises. Reheating of foods and prepared foods only. A hot dog roller is permissible.

41. Applicant shall install sidewalk along Grand Central Parkway.

The foregoing Resolution was duly passed and adopted by the Berkeley Township Zoning Board of Adjustment on the 13th day of June 2018, by the following vote:

YES:	<u>4</u>
NO:	<u> </u>
ABSTAIN:	<u>1</u>
DISQUALIFIED:	<u>1</u>
ABSENT:	<u>1</u>

ATTEST:

BERKELEY TOWNSHIP ZONING
BOARD OF ADJUSTMENT


EDWARD GUDAITIS
Secretary


By: RICHARD ELLIOTT
Chairman