

BRICK, TOWNSHIP
OF
(PLANNING AND ZONING DEPT.)



LDS BR-PZ 10402637

USE APPROVAL/VARIANCES
TRI MURTI ASSOCIATES
Block 383.40, Lots 1-5
Brick Blvd & Lake Shore Way
Zone: B-2

**RESOLUTION OF DENIAL
BOARD OF ADJUSTMENT, TOWNSHIP OF BRICK**

Case #BA-1835D

March 18, 1998

WHEREAS, an application has been made by Tri Murti Associates (Owner Ramesh J. Pandya) for the granting of a use approval on Block 383.40, Lots 1 through 5 as set forth on the Tax Maps of the Township of Brick; and

WHEREAS, the Board of Adjustment, after carefully considering the evidence presented by the applicant, and the report from its professional staff, hereby makes the following findings of fact:

1. The applicant has submitted an Affidavit of Ownership from the owners and has obtained authorization by the owners of Lots 1 through 5, Ramesh J. Pandya and Sharmishta Pandya, to file the application and seek the use approval.

2. The applicant has requested approval in accordance with the Ordinances of the Township of Brick.

3. The site in question is located in the B-2 zone, located at Brick Boulevard and Lake Shore Way.

4. The applicant is requesting a use variance from the Brick Township Land Use and Development Regulations of the Code of the Township of Brick to construct a two-story, 45-room motel unit adjacent to an existing Pizza Hut.

5. Owen, Little & Associates, Inc. prepared a report to the Board dated May 1, 1997. The Board hereby adopts the findings in

File
Tri Murti
Stanton
Montenegro
Owen
Coronato
Building
Zoning

that report and incorporates that document in this Resolution by reference.

6. Michael P. Fowler, Municipal Planner, prepared a report to the Board dated July 1, 1997. The Board hereby adopts the findings in that report and incorporates that document in this Resolution by reference.

7. The applicant presented testimony at Board meetings of July 2, September 3, November 5, 1997 and January 22, 1998. The applicant presented the testimony of James Stanton, P.E., P.P. who testified that the applicant was proposing 40 rooms in lieu of the original proposal for 45 hotel rooms. Mr. Stanton testified that the use of the restaurant in conjunction with the site being used for a hotel/motel is consistent, and that the applicant intends to meet the ordinance requirement for parking spaces. Mr. Stanton testified that the use was consistent with the mast plan and zoning plan and compatible with the residential use. The testimony of John H. Rea, P.E., a traffic engineer was presented. Mr. Rea testified as to the traffic study he conducted, which was conducted on June 20 and July 3. Mr. Rea indicated that 96 parking spaces are proposed and the maximum number of cars on the site on the days the survey was conducted was 38, with 115 driveway movements. Mr. Rea testified that a 40-room motel could expect to generate 40 cars per day. Mr. Rea indicated that the motel would generate less traffic than other uses normally found in the B-2 zone.

The testimony of a Mr. Wong, an expert in hotel administration, testified as to his expertise in the field. Mr.

Wong indicated that a market survey and concluded that the market for this motel is very good and feasible. Mr. Wong indicated that the hotel would be a limited service operation with no on-site restaurant and used mostly by the commercial segment with peak usage being on Mondays through Thursday, with an anticipated 60% occupancy rate. Mr. Wong testified that there are no hotel chain currently operating in Brick and that the township has available 75 hotel rooms, thus a need exists for a hotel such as the one proposed. Mr. Wong testified that the proposed motel would not have a negative impact on the surrounding area.

The applicant represented that the proposed hotel is in keeping with the area and neighborhood. The applicant further testified throughout the hearing that it believes the granting of the use variance as set forth above would, in no way, be detrimental to the public good and, in fact, would be a direct benefit to the area.

Numerous members of the public and neighborhood expressed concerns regarding increased noise, the buffer areas between the site and their homes, the detriment the increase in traffic would cause, the negative impact the structure would have on the nearby lake, water runoff from the site. The objectors disagreed with the hours that the traffic study was conducted and expressed concerns that the study did not adequately reflect the traffic in the area at peak hours. The objectors opined that the need for a motel had been adequately established by the applicant, nor had the evidence supported an undue hardship on the applicant or that the proposed

use would be inherently beneficial to the community.

WHEREAS, the Board of Adjustment has determined that the applicants should be **denied** the requested relief for the following reasons:

1. The applicant failed to prove that the proposed structure would be inherently beneficial to the owner and would pose no danger to the surrounding area.

2. The granting of the variance will have a substantial detriment to the public good and will substantially impair the intent and purpose of the Zone Plan and Zoning Ordinances of the Township of Brick.

3. While the Board agrees that the Township of Brick may need another hotel, the negative criteria far outweighs the positive criteria.

4. The applicant has failed to sustain its burden to show a special reason why a hotel should be permitted in the B-1 zone and why. The applicant failed to present sufficient proof that it will suffer an undue hardship should the use not be approved. While the site may be suited for a hotel, this does not negate the fact that another use may also be ideally suited to the site. The applicant has failed to present credible testimony as to how the site and location are particularly suited for the proposed use and the special reasons for granting the use variance have not been established.

5. The Board finds the testimony of the traffic engineer, John E. Rea, P.E., not completely credible. It is the opinion of

the Board that the traffic generated by the motel will have a much greater impact on the area than that represented by the traffic engineer.

6. The buffer required between a commercial development and a residential developer is 60 feet. The applicant has proposed a buffer of 30 to 50 feet between the site and surrounding sites. According to the Township Planner, the Environmental Commission reviewed an amended site plan in October of 1991, and recommended a 50-foot buffer between any site disturbance and Lake Riviera/Kettle Creek. The proposed building has a setback of approximately 34 feet from the water.

7. In accordance with the Township Planner's comments in his report of July 1, 1997, "The Master Plan recommends that vacant property adjacent to the Township's inland waterways should be utilized for preservation purposes to maintain surface water quality. The Master Plan also promotes sufficient buffers between commercial and residential uses and the compatibility of adjacent uses. The intensity of the proposed motel use and the lack of required buffers is not consistent with those Master Plan provisions.

8. The applicant has failed to sustain its burden to prove that the variances can be granted without substantial detriment to the public good, nor the substantial impairment of the intent and purpose of the Township's Master Plan and Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, by the Brick Township Board of Adjustment that the application is hereby **denied**.

March 18, 1998

ROLL CALL VOTE

Moved by: J. MacDonald

Seconded by: R. Collier

Affirmative Vote: J. MacDonald, A. Marchetti, C. Hilsheimer,
J. Rentschler, R. Collier, S. Szucs

Negative Vote:

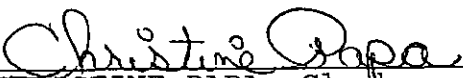
Abstaining:

Absent: J. Vacante

Ineligible: H. Postel, P. Ehlers

CERTIFICATION

I, CHRISTINE PAPA, Clerk, Board of Adjustment of the Township of Brick, County of Ocean and State of New Jersey, do hereby certify that the foregoing Resolution was duly passed by the said Board of Adjustment of the Township of Brick at a meeting held on this 18th day of March, 1998.


CHRISTINE PAPA, Clerk
Brick Township Board of Adjustment