

MINOR SUBDIVISION
PMK FAMILY TRUST II, LLC
Block 547, Lot 24
PSD CORPORATION
Block 547, Lot 22
Property Address: 479 BRICK BLVD.
Zone: B-2 General Business

Resolution R-38-12
Application No. 2715-MS-7/12

RESOLUTION OF APPROVAL
PLANNING BOARD, TOWNSHIP OF BRICK

WHEREAS, an application has been made by **PMK Family Trust II, LLC, owners of Block 547, Lot 24 and PSD Corporation, owner of Block 547, Lot 22**, for approval of a minor subdivision application, as set forth on the Tax Maps of the Township of Brick

WHEREAS, the Planning Board, after carefully considering the evidence presented by the applicants at the Planning Board meeting of August 22, 2012, and considering the reports of its professional staff, hereby makes the following findings of fact:

1. The property is owned by PMK Family Trust II, LLC (Lot 24) and PSD Corporation (Lot 22).
2. The applicants have requested approval in accordance with the Ordinances of the Township of Brick.
3. Lot 24, owned by PMK Family Trust II, LLC, is a commercial site located at 479 Brick Boulevard on the east side, approximately 400 feet north of Bryn Mare Drive. The lot is occupied by single-story masonry building.

Lot 22, owned by PSD Corporation, is located on the north side of Linden Avenue, approximately 100 feet west of Jackson Avenue and is vacant and wooded.

Both lots are situated in the B-2 General Business Zone.

4. The applicants are requesting approval of a minor subdivision for the sole purpose of shifting a portion of Block 547 Lot and consolidating it with Block 547, Lot 24. No site modifications are proposed.

The following non-conformities represent existing conditions at the site and will be not exacerbated by the approval of this application:

New Lot 24 – Lot Width:	125 ft. required; 106.58 ft. exist
New Lot 24 - Setback/building:	10 ft. required; 9.5 ft exist
New Lot 24 – Impervious Coverage:	65% permitted 80%+ exists; approximately 70% proposed
New Lot 24 – Parking:	Not permitted closer than 20 ft. to right of way; <20 ft. exist to Brick Blvd.

No new variances are requested.

The applicants are also requesting design waivers for the required curbs, sidewalks and shade and street trees.

File 2
App 2
App All
App Eng
PB All
PB Eng
Zoning
Tax A
Eng

5. The board engineer, Wayne R. McVicar, P.E., P.P., C.M.E., of Remington & Vernick, prepared reports to the Board dated August 6th and August 10th, 2012. The Brick Bureau of Fire Safety prepared a report dated August 7th, 2012. The Brick Township Architectural Committee reviewed the application and issued a "Letter of No Interest" dated August 2nd, 2012. The Township Engineer reviewed the application and issued no comment in its letter dated August 13th, 2012.

The Board hereby adopts the findings in the above-mentioned reports and incorporates the reports in this Resolution by reference.

The applicants were represented by John J. Mensching, Esq., of Toms River, NJ. The applicants presented the testimony of their professional engineer, Stuart C. Challoner, P.E., P.P. Mr. Challoner testified that no site modifications are proposed and that the minor subdivision is for the sole purpose of shifting a portion of Lot 22 and consolidating it with Lot 24. Mr. Challoner also testified that there are encroachments on Lot 22 and that the parties have agreed to allow the encroachments to remain as they are for the time being. Mr. Challoner also testified that the granting of the application would in no way be detrimental to the public good.

The testimony presented by the applicants' professional engineer supported the applicants' contention that the proposed minor subdivision is in keeping with the area and neighborhood.

The Brick Township Planning Board concurs with these representations and so finds.

WHEREAS, the Planning Board has determined that the applicants should be granted the requested relief for the following reasons:

1. No site modifications are proposed. The sole purpose of the minor subdivision is to adjust the lot lines and the existing non-conformities will not be exacerbated by the lot line adjustment.

2. The granting of the application will not have a substantial detriment to the public good and will not substantially impair the intent and purpose of the Zone Plan, Master Plan, and Zoning Ordinances of the Township of Brick.

3. The positive criteria outweigh the negative, if any.

4. There were no objectors present at the hearing.

5. The safety and well being of the immediate area will not be adversely affected by the proposed minor subdivision, existing non-conformities, and design waivers.

6. The application is in substantial compliance with the Zone Plan, and will not unduly impact upon the neighborhood scheme.

NOW, THEREFORE, BE IT RESOLVED, by the Brick Township Planning Board that the application is hereby approved subject to the following conditions:

1. The applicants must submit proof of payment of all currently due taxes to the Brick Township Planning Board.

2. The applicants must post all bonds and guaranties as required and recommended by this Board and the Township Board Engineer. Moreover, the applicant must post all required engineering inspection fees.

3. All representations and statements made by the applicants, as well as applicants' representatives and witnesses, shall be considered and deemed to be relied upon by the Board in rendering this decision and to be an expressed condition of this Board's actions in approving the subject application. Any misstatement or misrepresentation, whether by mistake or change in circumstance, shall be deemed a breach of this condition of approval and shall subject this application to further review of this Board's own motion.

4. In the event the Planning Board determines that it reasonably relied upon any misstatement or misrepresentation, then and in that event, any approvals previously given may be rescinded and any improvements at the time in place on the premises in question shall not be in compliance with the ordinances of the Township of Brick.

5. The applicants must comply with all conditions as contained in the Board Engineer's Report dated August 10th 2012.

6. No building permit shall be issued until the Board Secretary confirms that the Planning Board professional fees have been paid in full. In the event a building permit is issued and there are outstanding Planning Board professional fees, a stop work order will be filed against the applicants until all professional fees have been paid.

7. In the event there is an *existing* violation, the applicants shall have thirty (30) days from the date the Notice of Decision was published to correct the violation. Failure to correct the existing violation within the time proscribed will result in the issuance of a summons.

8. The applicants must comply with all conditions outlined in Schedule A attached hereto.

9. The applicants shall obtain any other local, state and other regulatory approvals as may be required.

10. The applicants' request for a waiver of the requirements to plan street and shade trees is approved since it is the intent of the owner of New Lot 24.01 to come back before this Board for site plan approval.

11. The applicants' request for a waiver of sidewalks and curbs is denied. In lieu of installing sidewalks, the applicants are required to make a payment to the Brick Township Pedestrian Safety Fund equal to the cost of the installation of the sidewalks. The amount due will be calculated by the Township Engineer. The applicants have the right to appeal this decision to the Town Council.

12. Relative to the encroachments that will remain on Lot 22, the applicants must enter into an agreement holding the Township of Brick harmless from any liability associated with the encroachments on Lot 22.

The applicant's attorney shall prepare and submit to the Board Attorney for review a Hold Harmless Agreement. The Hold Harmless Agreement shall include a reference to the application number, adoption date of the resolution and space for signature by the Planning Board Secretary.

NOW, THEREFORE, BE IT RESOLVED, the application, limited to the terms and conditions as set forth more fully in the preamble of this Resolution, be and hereby is approved.

BE IT FURTHER RESOLVED that the Planning Board secretary shall cause notification of this favorable Resolution to be published in an official newspaper of the Brick Township within ten (10) days of the adoption of this resolution.

MOVED BY: Mr. Palmieri

SECONDED BY: Mr. Scott

VOTING IN THE AFFIRMATIVE: Mr. Rappoccio, Mr. Palmieri, Mr. Scott, Mr. Beshears, Mr. Catalano

VOTING IN THE NEGATIVE:

INELIGIBLE TO VOTE:

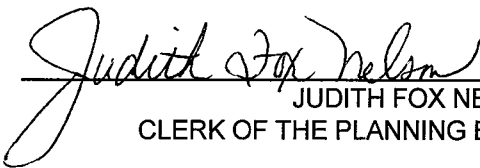
ABSTAINING:

Mr. Marra, Mr. Coakley, Councilwoman Lydecker, Mr. Liloia, Mr. Burkland, Mr. DiMatteo

ABSENT:

CERTIFICATION

I, **JUDITH FOX NELSON**, Clerk of the Planning Board of the Township of Brick, County of Ocean, State of New Jersey, do hereby certify that I am duly authorized to certify Resolutions. I certify that the foregoing Resolution was adopted by the Planning Board of the Township of Brick at a meeting held on the 12th day of September, 2012.


JUDITH FOX NELSON,
CLERK OF THE PLANNING BOARD

ATTACHMENT "A"

BRICK TOWNSHIP PLANNING BOARD

STANDARD CONDITIONS FOR MINOR SUBDIVISION APPROVAL

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July 25, 2012

1. Applicant shall obtain all approvals required by any Federal, State, County or Municipal agency having regulatory jurisdiction of this development. Upon receipt of such approval(s), the applicant shall supply a copy of the permit(s) to the Board. In the event that any other agency requires a change in the plans approved by this Board, the applicant must reapply to the Brick Township Planning Board for approval of that change.

2. Applicant shall resubmit this entire proposal for re-approval should there be any deviation from the terms and conditions of this resolution or the documents submitted as part of this application, all of which are made a part hereof and shall be binding on the applicant.

3. Applicant shall provide a statement from the Brick Township Tax Collector that all taxes are paid to date of this resolution and as of the date of the fulfillment of any conditions of this resolution.

4. Applicant shall furnish a duplicate mylar of the filed map, certified by the applicant's engineer, to the Township Engineer.

5. Applicant shall post a bond for the setting of monuments in accordance with the map filing law in an amount to be determined by the Township Engineer.

6. No soil shall be removed from the site without the written approval of the Township Council.

7. The applicant shall comply with all provisions and pay all fees established under article VI (Mandatory Development Fees) of Chapter 245 of the code of the Township of Brick.

8. The applicant or any successor shall provide one maximum size trash container unit identical with those used for other residences in the Township of Brick for each lot. Said container shall be provided at the time the building permit is issued and the cost of the total required number of containers shall be provided for as hereinabove required.

9. For all residential uses, the subdivider or site plan applicant shall provide for a trash receptacle.

10. In order to insure uniformity of trash receptacles and compatibility with the automatic trash collection system, all trash can receptacles required herein shall be obtained from the Township of Brick.