

BRICK, TOWNSHIP OF (PLANNING AND ZONING DEPT.)



LDS BR-PZ 10503785

BRICK TOWNSHIP PLANNING BOARD
MINOR SITE PLAN APPROVAL
WITH VARIANCES AND DESIGN WAIVERS

RESOLUTION R-112-99

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CASE NO. PB-2312-ASP-9/99

December 8, 1999

WHEREAS, JOHN A. CATALANO, having a mailing address of 29 Robbins Street, Brick, NJ 08724, has applied to the Brick Township Planning Board for minor site plan approval with variances and design waivers pursuant to N.J.S.A. 40:55D-46.1, 51, 60 and 70; and

WHEREAS, proof of service as required by law upon appropriate property owners and governmental bodies has been furnished and determined to be in proper order; and

WHEREAS, a public hearing was held on November 23, 1999 in the Municipal Building, at which time testimony and exhibits were presented on behalf of the applicant, and all interested parties having been heard; and

WHEREAS, the Board makes the following factual findings and findings of law:

1. This property is known and designated as Block 820, Lot 60, on the Municipal Tax Map.
2. The property is located in the B-1, Neighborhood Business Zone.
3. The applicant proposes to construct a 301 square foot addition to an existing retail building. The building is used as a continued delicatessen, luncheonette, convenience store and jewelry shop. It is located on the southerly side of Route 88 at its intersection with Forge Pond Road. The purpose of the addition is to square off an existing jog in the building so as to provide needed additional space. The store known as the "Ye Olde Country Store" has been long-existing on the site and has a clientele

*File-2
Catalano
Cucci
East Coast Eng
Doyle
Curley
Blodgett
eng-2
Young
BFS
COAH
Ins Assessor*

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familiar with its configuration and parking. The variances and waivers that are sought are generally pre-existing and their existence has not proven to be a detriment to the public. The proposed addition does not exacerbate the conditions that require variances and waivers. In connection with the changes the site will be modernized and improved which is a benefit to the public.

4. Lynch, Giuliano and Associates prepared a report to the Board dated November 10, 1999. The Board hereby adopts the findings in that report and incorporates that document in this resolution by reference.

5. Michael P. Fowler, Municipal Planner, prepared a report to the Board dated November 23, 1999. The Board hereby adopts the findings in that report and incorporates that document in this resolution by reference.

6. The Bureau of Fire Safety prepared a report to the Board dated October 15, 1999. The Board hereby adopts the findings in that report and incorporates that document in this resolution by reference.

7. The Traffic Safety Officer prepared a report to the Board dated November 5, 1999. The Board hereby adopts the findings in that report and incorporates that document in this resolution by reference.

8. The Shade Tree Commission prepared a report to the Board dated November 15, 1999. The Board hereby adopts the findings in that report and incorporates that document in this resolution by reference.

9. The following variances have been applied for:

(a) A sign setback of seven (7) feet whereas ten (10) feet is required;

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(b) Thirteen (13) parking spaces provided whereas fifteen (15) are required:

(c) Parking stalls that are 9 x 20 whereas 10 x 20 is required;

(d) Parking facilities which are five (5) feet from the right-of-way whereas twenty (20) feet is required;

(e) A minimum aisle width of nine (9) feet whereas twenty-five (25) feet is required; and

(f) A driveway that is 83 feet from the intersection of two public streets whereas 100 feet is required; and

(g) An existing sign exceeding the square footage limitation of 25 feet, and which sign is fifteen (15) feet high whereas twelve (12) feet high is the maximum allowed height.

The Board finds that all these conditions represent pre-existing conditions that have not proven to be a detriment to the public good or substantial detriment to the zone plan or zoning ordinance. The benefit of granting these variances is that it is done in connection with the change and improvement to the site. This benefit outweighs any detriments by continuing the pre-existing variance conditions. Therefore, the variances are granted.

10. The applicant seeks waivers so as to allow the following:

(a) Providing a ten (10) foot buffer to an adjacent residential use whereas twenty-five (25) feet is required;

(b) Not providing architectural plans whereas they are required;

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(c) Not providing berming along the frontage on major roadways including New Jersey State Highway Route 88 East whereas no berming is provided; and

(d) Not providing street trees and shade trees whereas the same are required;

(e) The existing site identification sign is located within the site triangle easement whereas that is not allowed; and

(f) The applicant seeks a waiver for the orientation and location of the parking stalls adjacent to the proposed handicapped parking stall.

The Board finds that this is a very limited and already developed site. The limitations of the site by being on a corner, having an existing structure and two frontages make the provision of these items a hardship. The change is relatively small thereby obviating the need for architectural designs. For these reasons it is determined that the imposition of these standards would render a hardship to the applicant and therefore exceptions may be granted;

11. With the exception of the variances and the waivers which are granted hereinabove, the applicant has complied with the requirements of the site plan ordinance. The plan is consistent with the intent and purpose of the Master Plan and the Municipal Development Ordinance. Accordingly the Board finds that the benefits of the proposed development outweigh any detriments, and the relief requested can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the Township Zoning Ordinance or Master Plan.

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NOW, THEREFORE, BE IT RESOLVED by the Township Planning Board on this 8th day of December, 1999, that this application be approved subject to the following conditions:

1. The applicant shall comply with all standard Planning Board conditions for minor site plan approval as set forth on Attachment "A".
2. The applicant shall comply with all representations and agreements made by the applicant or its attorney during the presentation of this case.
3. The applicant shall comply with the following paragraphs contained in the report of Lynch, Giuliano and Associates dated November 10, 1999: 4 (the hours of operation shall be 6:00 AM to 9:00 PM Monday to Friday and 6:00 AM to 6:00 PM on Saturdays, Sundays and holidays), 5, 6, 7, 15, 16, 17 and 18.

In response to paragraph nine the applicant described the second floor office as minor and used basically for storage. The approval granted herein is conditioned upon the second floor not being used for a residence, or being leased out or being used by anyone but the owner.

Consistent with paragraphs eleven and twelve, the applicant shall revise the plans so as to provide a configuration of the handicapped space and the adjacent parking stalls that are sufficiently realigned so as to be safe and satisfactory to the Planning Board Engineer. To the degree that waivers are needed without impairing the appropriate standards, such waivers are granted. The applicant will locate on the plan the proposed handicapped ramp.

The applicant will bring the existing trash enclosure into conformance with Section 190-224.1 of the Brick Township Code as noted in paragraph thirteen.

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The existing onsite fuel tank noted in paragraph fourteen shall be removed.

4. The Board notes the report of Michael P. Fowler, Municipal Planner, as described hereinabove. The variances, waivers and comments noted therein have been responded to by reason of the comments and conditions arising from Mr. Curley's report.

5. The applicant shall comply with the following comments contained in the report from the Bureau of Fire Safety dated October 15, 1999: 1, 2 and 4.

6. The applicant shall comply with the comments contained in the report from the Shade Tree Commission dated November 15, 1999.

7. The applicant shall depict all existing landscaping on the plan.

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MOVED BY:

Mr. Scherer

SECONDED

BY:

Mr. Petoia

VOTING IN THE

AFFIRMATIVE:

Mr. Cevasco Mrs. Fox Mr. Kelly

Mrs. LaDuke Mrs. Paxton Mr. Petoia Mr. Reilly Mr. Palmieri

Mr. Scherer

VOTING IN THE

NEGATIVE:

INELIGIBLE TO

VOTE:

Councilman Underwood Mr. Bayard

ABSTAINING:

ABSENT:

CERTIFICATION

I, **E. JOAN KULL**, Clerk of the Planning Board of the Township of Brick, County of Ocean, State of New Jersey, do hereby certify that the foregoing resolution was duly **ADOPTED** by the said Planning Board of the Township of Brick at a regular meeting held on the 8th day of December, 1999.

IN WITNESS WHEREOF, I have set my hand this 21st day of December , 1999.


E. JOAN KULL
Clerk of the Planning Board

ATTACHMENT "A"

BRICK TOWNSHIP PLANNING BOARD

STANDARD CONDITIONS FOR SITE PLAN APPROVAL

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1. Applicant shall obtain certification by the Local Soil Conservation District of a plan for soil erosion and sediment control in accordance with N.J.S.A. 4:24-39 et seq., commonly known as the "Soil Erosion and Sediment Control Act."
2. All materials, methods of construction and details shall be in conformance with the current "Engineering Specifications and Construction Details" of the Township of Brick, which are on file in the office of the Township Engineer.
3. 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.
4. 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.
5. Applicant shall provide a statement from the Brick Township Tax Collector that all taxes are paid in full as of the date of this Resolution and as of the date of the fulfillment of any condition(s) of this Resolution.
6. Prior to the issuance of a construction permit, the applicant shall furnish the Township Clerk with a cash bond and performance guarantee in an amount to be determined by the Township Engineer.
7. Applicant shall post an inspection fund with the Township Clerk in an amount to be determined by the Township Engineer.

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

9. The applicant shall comply with all provisions and pay all fees established under Article VB (Mandatory Development Fees) of Chapter 190 of the Code of the Township of Brick.

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

11. 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.