

PRELIMINARY & FINAL SITE PLAN
K & S Wall Properties, LLC
Block: 842 Lot: 22 & 25
Property Address: 1691 & 1695 Route 88

Resolution: R-23-15
Application No. 2767-PSP-V-FSP-7/15

RESOLUTION OF MEMORIALIZATION OF THE
BRICK TOWNSHIP PLANNING BOARD

PRELIMINARY & FINAL SITE PLAN APPROVAL WITH VARIANCES

WHEREAS, K & S Wall Properties, LLC, 1909 Vincent Court, Wall, New Jersey
07719, has made application to the Brick Township Planning Board for preliminary and final site plan approval with variances for Block 842, Lots 22 & 25 on the Township Tax Map pursuant to N.J.S.A. 40:55D-46, -50, and -60; to construct a one story medical office building of 4,077 sq. ft. along with 19 parking stalls, landscaping and other site improvements; and

WHEREAS, the applicant has requested the following variances in conjunction with said preliminary and final site plan approval:

- (A) Rear yard setback variance where ten feet is required, and although the building footprint complies, an awning overhang 5.5 feet as proposed from the property line.
- (B) Maximum impervious coverage variance where a maximum of 60% of impervious coverage is permitted and the applicant proposes 72% of impervious coverage.
- (C) A variance for the number of parking spaces, inasmuch as the ordinance requires 21 parking spaces for a 4,077 sq. ft. medical office use, but only 19 parking spaces are proposed.
- (D) A variance for a 20 ft. setback for off street parking is required, but only a 10 ft. setback is proposed.

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Eng 2

(E) A variance from the requirement of a 3 ft. berm between the right-of-way and parking area where the applicant proposes plantings of 3 ft. or more in lieu of the 3 ft. berm.

(F) A buffer equal to 20% (or 30 feet) of the lot depth is required between commercial and residential uses, but a variance is required because the applicant proposes a buffer of approximately 10 ft. in width.

(G) A 25 ft. wide access aisle for perpendicular parking is required pursuant to the ordinance, but a variance is required because the applicant proposes a 24 ft. wide driveway access aisle.

(H) A minimum accessory use setback of 20 ft. is required, but the proposed trash enclosure is set back 16 ft. from the real property line requiring a variance.

(I) A minimum parking facility setback of 20 ft. is required in the front yard area, but the applicant proposes setbacks of 8 ft. along Laurelton Street and 10 ft. along State Highway Route 88 requiring variances; and

WHEREAS, the applicant has additionally sought design waivers in conjunction with said preliminary and final site plan approval as follows:

(A) A minimum landscaped buffer of 30 ft. or greater requires the planting of a triple row of evergreens, but the applicant proposes a single row of plantings in the buffer area.

(B) A loading area for pick up and deliveries is required separate and apart from required vehicular parking facilities, but no loading area is proposed.

(C) A waiver from the design requirement for a trash enclosure to be a minimum of 8 ft. by 16 ft., since the proposed plan shows a 4 ft. by 8 ft. enclosure.

(D) A waiver from the design requirements in the Township's Street Scaping Ordinance is required.

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 September 23, 2015 in the Brick Township Municipal Building at which time testimony was given and certain exhibits hereinafter described were presented on behalf of the applicant and all interested parties having had an opportunity to be heard; and

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

1. This property is designated as Lot 22 & 25 in Block 842 on the Municipal Tax Map of the Township of Brick and is located at 1691 & 1695 Route 88 on the southwest corner of Laurelton Street and New Jersey State Highway 88.

2. The property in question is located in the B-1 neighborhood business zone. The proposed use is a permitted use, to wit a one story medical office building.

3. Dr. Hitesh Patel, Owner and President of K & S Wall Properties, LLC, as well as Jeffrey J. Carr, PE, PP, applicant's engineer and planner, Jack Purvis, AIA, the applicant's architect, after being duly sworn testified on behalf of the applicant after having identified and moved into evidence the following Exhibits:

A-1 an Architectural rendering;

A-2 an Exhibit Plan one of one;

A-3 a rendering of the proposed sign;

A-4 architectural drawings.

4. The applicant proposes to construct a 4,077 sq. ft. one story medical office building in, as the engineer described, a hospital support zone. Mr. Carr's testimony included an overview of the proposal and testimony concerning an old house that had been on the property

that had been razed. The site is 18,750 sq. ft. with 150 ft. of depth and 125 ft. of frontage along Route 88. Because it is a corner lot, it has two frontages. The lot conforms to the area requirement of 12,500 sq. ft. Mr. Carr testified that both the lot width and depth comply, but he located the building on the site to accommodate the property's close proximity to a residential zone which it abuts to the west. The building was placed in the rear of the lot to keep the parking area away from the residential zone. The site plan provides for no activity whatsoever in the rear of the building to accommodate the close proximity of the residential area.

5. The applicant seeks a variance for a shortage of two parking spaces. In explaining this request, Mr. Carr testified that he balanced adding the bumpers and the requisite parking against the needs for the size of the building. He indicated in his engineering expertise he struck a balance between maintaining as much buffer area as possible as well as an appropriate size of the structure. Thus, the request for a variance for two parking spaces as a product of this equitable balancing. Mr. Carr testified that a rear yard setback variance was required along the left side of the building not due to the footprint of the building, but simply because of an approximate 5 ft. awning overhang above a doorway on the side. On behalf of the applicant Mr. Carr volunteered that the awning could be removed, but inasmuch as awnings are appropriate over doorways and this side of the building borders another business, he felt that a variance for that setback was appropriate.

6. As to the requested variance from the maximum impervious coverage requirements of the zoning ordinance, Mr. Carr testified that it is a small site and indicated that all stormwater runoff is being handled on site. He opined that the real reason for the impervious coverage ordinance is to handle on site stormwater. Inasmuch as a recharge system is being proposed in the front of the property, he testified that this variance for exceeding the maximum

impervious coverage requirement is appropriate and not detrimental whatsoever.

7. Again due to the balancing of the design of the site, Mr. Carr seeks, on behalf of the applicant, a variance for the requirement of 25 ft. wide driveway access aisle, requesting a 24 ft. wide aisle, which he considered de minimus. Moreover, in response to inquiries by the Board's Planner Mr. Fowler, Mr. Carr testified that a loading area was not necessary due to the type of business that would be conducted. The Drs. Patel and Patel are internists and gynecologists, and will essentially share the office and alternate their hours so that both are not in the building at the same time. Mr. Carr opined that no trash enclosure was necessary due to the low level of waste that would be created by a doctor's office. As for medical waste, same would be handled inside the structure and contracted for its removal. As for any issues or deficiencies with the sign ordinance Mr. Carr volunteered that the applicant would comply.

8. In further support of the variances under either subsection (c)(1) or (c)(2) of N.J.S.A. 40:55D-70 Mr. Carr offered the fact that no additional property can be purchased to eliminate the bulk variances sought and the relatively small size of the property for this zone and its being located on a corner lot satisfied the positive criteria of the (c)(1) variance. Mr. Carr also testified as a Planner he felt there was no negative impact on the zone plan and the zone scheme if the requested variances were granted. He additionally rendered an opinion that the (c)(2) variance would be appropriate inasmuch as he felt that this was an aesthetically better proposal than what had existed there and the benefits in advancing the purposes of the Municipal Land Use Law substantially outweighed any detriment to the zone plan and zone scheme that might be caused by the adoption of the site plan. He also testified that the variances sought had no negative impact or de minimus impact and in fact the site plan proposed met the spirit of the Brick Township ordinances.

9. The applicant's architect, Mr. Jack Purvis, testified after qualifying as a licensed architect, concerning signage. He also indicated that mechanicals would be inside the structure in the attic but compressors would be located on the side of the building next to the business building to the south of this property. Purvis testified that the building is actually a one story "A" roof although the false front seems to create the impression of a two story structure. The interior layout is approximately 60/40 split into two offices. Dr. Patel and his wife Dr. Patel would utilize the larger portion of the interior of the building, and it is anticipated that the balance of the property would be rented to another doctor. With that potential the Board recognized and the applicant acknowledged that one additional parking space would be required. Due to the additional parking space requirement, the Board and the applicant through its professionals reviewed the site plan with an eye toward creating additional parking on site. The applicant agreed to slight modifications in the site plan which would result in nine ft., parking stalls, revisions to the handicapped parking spaces and inclusion of an additional parking stall in the front of the building by shrinking the size of a landscape area in front of the building on the right hand side as one faces the building from the front. These revisions would create two additional parking spaces leaving the requests for a variance from what would be now recognized as 22 parking spaces to 21.

10. Dr. Hitesh Patel testified currently he maintains his medical office with his wife approximately two blocks away, as well as a separate office in Brielle. He testified that the hours of operation would be from 9:00 a.m. to 5 p.m. He notes he sees approximately 15 patients a day in the office and spends approximately 15-20 minutes per patient. His wife, Dr. Patel, sees 10 to 15 patients on a daily basis. Their office is composed of a staff of one receptionist, one medical assistant, and the doctor that would be on site.

11. Through the course of discussions with the applicant and professionals, the applicant agreed to add a small sidewalk in the rear of the property to accommodate the trash collection from garbage cans in the back of the property. The applicant agreed to designate two separate parking spaces located toward the rear of the property for "employees only" and extend a solid white fence the full length of the rear of the property. The applicant agreed that some form of outside seat in the form of a bench would be installed. Three ornamental trees, either shade or street trees, would be added to the plan.

12. The applicant reviewed the September 15, 2015 report from the Board's engineer Adams, Rehmann & Heggan and agreed to appropriate revisions as set forth in Section C.1, the Technical Review Comments concerning site geometry and layout. The applicant agreed to show ADA-compliant layout for the handicapped spaces; the applicant agreed to comply with C. 4's recommendations concerning roads, sidewalks and curbing, paragraph C.5's technical requirements regarding signs and striping, paragraph 6's lighting management recommendations, subparagraph 9's grading recommendations, the recommendations concerning two soil borings and stormwater management and water quality. Finally the applicant also agreed to show an easement on the site plan for a 20 ft. wide BTMUA easement along Route 88 and obtaining approvals from all other agencies.

13. In addressing the Planning Board planner's report of September 16, 2015, other than the aforementioned items the applicant agreed to prepare a Deed of Consolidation to combine lots 22 and 25 into one, and notations on the plan that no topsoil would be removed from the site or used as spoil.

14. The Board received correspondence addressing the application from these additional parties:

- a) Architectural Review Committee report of September 22, 2015;
- b) Brick Township Police Department Traffic Safety Unit report of August 18, 2015;
- c) Shade Tree Commission correspondence of August 19, 2015;
- d) Elissa C. Commins, PE, Township Engineer's report of August 10, 2015 (to which the applicant agreed that a sidewalk alignment would be verified to coincide with existing sidewalks west of Laurelton Street; the sidewalk easement or right of way dedication would be provided to the State or the Route 88 sidewalk).
- e) Bureau of Fire Safety August 10, 2015 correspondence (to which the applicant agreed).

15. When the hearing was opened to the public several members addressed the Board and the applicant and their professionals. Mr. William Barrett testified that he appreciated the moving of the mechanicals to the south side of the building, but had concerns about parking. He, along with several other individuals, noted that there is an office building across Laurelton Street from this proposal on the northwest corner of Route 88 and Laurelton Street. He testified that parking has become a problem with overflow parking on Laurelton Street causing traffic safety concerns. The building currently existing to the north of this site is a medical building and he was assured when that was approved the 21 spaces would be satisfactory. While Mr. Barrett appreciated the efforts being made by the Board concerning parking spaces, he voiced his opposition because of that continuing safety issue. Mr. David Sprosty of 1681 Laurelton Street similarly was concerned about safety and children in the neighborhood. As Mr. Sprosty voiced concerns about the ability to utilize the attic area, the applicant agreed to deed restrict the property so that the attic would remain non-inhabitable and only be utilized to house interior

mechanicals for the building. No usable living space or business space would ever be constructed in the attic area. Ms. Melinda Murray of 1622 Porch Pond Road testified about concerns with stormwater and the curbing of State Highway 88 as proposed by the applicant. In response the applicant indicated its stormwater would all be handled on site in accordance with the site plan. Robin Johansen of 1688 Laurelton Street echoed the concern of her other neighbors regarding safety along the street due to the overflow parking occurring on Laurelton Street. In response to the safety issues the Board indicated information would be forwarded to the Traffic Safety to review the situation on Laurelton Street with an eye toward appropriate corrections by way of possible parking restrictions on Laurelton.

16. Having heard the testimony of the applicant and its professionals as well as the neighbors voicing objection to the plan and the Board's own professional staff, the Board does in fact find and determine and accept the testimony of the applicant's engineer and architect in support of the requests for variances and design waivers as set forth in the site plan and through the course of testimony as indicated above. Specifically the Board finds that the requested variances are de minimus in most instances and in all instances advance the purposes of the Municipal Land Use Law by providing an aesthetically appealing proposal than what existed or what could possibly be placed on the property, and that these benefits and these advancements of the Municipal Land Use Law substantially outweigh any detriments to these proposed de minimus variance requests. Accordingly for the reasons referenced above and as set forth on the record, the board finds that the Preliminary and Final Site Plan Approval should be granted together with the variances and design waivers requested by the applicant and same can be granted without substantial detriment to the public good and will not substantially impair the intent and purposes of the zone plan, zoning ordinance or the master plan of the Township of

Brick.

NOW, THEREFORE, BE IT RESOLVED by the Brick Township Planning Board on this 14th day of October, 2015 that the application for Preliminary and Final Site Plan approval with variances and design waivers is hereby granted subject to the following conditions:

1. The applicant shall revise the plans to show a sidewalk being located behind the right of way with appropriate easements granted.
2. That applicant shall revise the plan to show 9 ft. parking stalls.
3. The revision of the landscaping strip to the right of the building and the revision of the handicapped stalls to create a total of 21 parking spaces on site.
4. Revision to the plans to show outside seating in the form of some bench seating in the front of the structure.
5. Revision to the plans to show a sidewalk or walkway from the rear of the property to accommodate the garbage cans.
6. Revision to the plans to show the outside mechanicals being located on the south side of the building.
7. Revision to the plans to show installation of 3 ornamental trees, either shade or street trees.
8. Revision to the plans to show the 6 ft. high vinyl fence being extended the entire length of the rear portion of the property.
9. Revision to the plans for the redesignation of the 2 parking spaces located toward the back of the building as employee only parking.
10. The applicant must submit proof of payment of all currently due taxes to the Brick Township Planning Board.

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

12. All representations and statements made by the applicant, as well as the applicant's representatives and witnesses, shall be considered and deemed to be relied upon by the Board in rendering this decision and to be an express 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 on this Board's own motion.

13. 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.

14. The applicant must comply with all conditions contained in the Board Engineer's report by Theodore Wilkinson, PE of Adams, Rehmann & Heggan dated September 15, 2015, and the Township Planner, Michael Fowler's report dated September 16, 2015, as noted herein and revised in accordance with the testimony elicited as set forth above.

15. 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 applicant/contractor until all professional fees have been paid.

16. In the event there is an existing violation, the applicant 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 prescribed will result in the issuance of a summons.

17. The applicant must comply with all conditions outlined in Schedule A attached hereto.

18. The applicant shall apply for and receive approvals from all other municipal, county, state and federal agencies having regulatory jurisdiction over this development as may be required.

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.

Certified copies of this Resolution shall be forwarded to the applicant, the Township Construction Official, Zoning Officer and all other parties in interest.

September 23, 2015

VOTE ON MEMORIALIZATION

MOVED BY: R. Gross

SECONDED BY: J. Catalano

VOTING IN THE AFFIRMATIVE: J. Catalano, B. Clayton, B. Cooke,
A. Halloran, J. Marra, J. Menshon, Councilman Mummolo, M. Troncone,
R. Gross

VOTING IN THE NEGATIVE:

INELIGIBLE:

IN-CONFLICT:

Absent: S. Burkland

ABSTAINING:

PRESENT BUT NOT VOTING : C. Occhiogrosso

CERTIFICATION

I, CHRISTINE N. PAPA, Clerk/Secretary to 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 regular meeting held on the 23rd day of September, 2015.


CHRISTINE N. PAPA, Clerk/Secretary
Planning Board/Zoning 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 submit 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.

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 VI (Mandatory Development Fees) of Chapter 245 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.

12. Applicant shall provide proof of application for Title NJSA 39:5 A-1 to the Planning Board.