

BRICK, TOWNSHIP OF (PLANNING AND ZONING DEPT.)



LDS BR-PZ 10504044

BRICK TOWNSHIP PLANNING BOARD

AMENDED PRELIMINARY AND FINAL SITE PLAN APPROVAL
WITH VARIANCES AND DESIGN WAIVERS

RESOLUTION R-51-97

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CASE NO. 2211 (1866) APFSP-11/96

May 14, 1997

WHEREAS, Vasiliias Hrisafiwis/Rainbow Diner, having a mailing address of 849 Route 70 East, Brick, New Jersey 08724 has applied to the Brick Township Planning Board for amended Preliminary and Final Site Plan Approval with variances and design waivers pursuant to N.J.S.A. 40:55D-46, 50, 51 and 60; 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 April 23, 1997 in the municipal building at which time and 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 designated as Lot 2, Block 854 on the Municipal Tax Map.
2. The property is located in the B-3 General Business Zone.
3. The proposed site plan seeks to amend a previous site plan, consisting of an existing diner and associated parking by adding 8,772 sq. ft. of paved parking area on adjacent land to be leased from the N.J.D.O.T. This plan provides 74 parking spaces, and is adding 520 sq. ft. of building construction to the kitchen area, and is enclosing the front foyer.
4. Lynch, Giuliano & Associates prepared a report to

File - 2
Hrisafiwis
Broncone
Cannon
Ford
Cunley
Bldg.
Eng. 2
Zoning
BFS.
C.O.A.H.

the Board dated April 23, 1997. The Board hereby adopts the findings in that report and incorporates that document in this Resolution by reference, however, items 15 and 17 are eliminated.

5. Michael P. Fowler prepared a report to the Board dated April 23, 1997. The Board hereby adopts the findings in that report and incorporates that document in this Resolution by reference with the following exception - items V (C) and (F) are eliminated.

6. Kevin C. Batzel prepared a report to the Board dated December 20, 1996. 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 December 19, 1996. The Board hereby adopts the findings in that report and incorporates that document in this Resolution by reference.

8. The following variances have been applied for:

<u>Bulk Requirement</u>	<u>Provided</u>	<u>Required</u>
Lot Area	1.25 AC. including leased land	2.0 AC.
Front Yard Setback	21.25 Feet to foyer area	75 ft.
Side Yard Setback For and Accessory Use	4 ft.	20 ft.

The existing and proposed site does not provide the required 60 ft. landscaped buffer area adjacent to a residential area as required for the B-3 Zone in Section 190-258(H).

9. The following design waivers have been applied for:

- Parking within 10 feet of the side property line.

The applicant provides a parking setback of only 4 feet along

the northerly property line and 6.8 feet adjacent to the leased parking area.

- A waiver of the requirement to provide a soil boring.

- A waiver of requirement to provide existing building architectural plans.

- A waiver is required for driveway width. A maximum width of 30 feet is permitted and 36 feet is provided.

- As per Section 190-259(A), the minimum landscaped area requirements are 25%. The applicant proposes approximately 22% and therefore, requires a waiver.

- As per Section 190-260(J), the parking stall size should be 10 ft. by 20 ft. The applicant has proposed 37 stalls of 9 ft. x 18 ft.

- Parking is not permitted within 20 feet of the front property line. The parking facilities abut the front property line adjacent to Dock Street.

- A minimum isle width of 25 feet is required and 18 feet is provided.

- The two driveways on Route 70 exceed 28 feet in width requiring a divider barrier. Divider barriers are not proposed.

- Berming and street trees are required adjacent to the site's Route 70 frontage but not provided.

10. The Board finds that the aforesaid variances and waivers are reasonable and should be granted in that are existing a number of the conditions are existing. The proposed reconfiguration of the existing site and the additional parking area eliminates or reduces the extent of

the variances/waivers, provides a more functional circulation pattern and will ameliorate the existing parking deficiencies experienced by the restaurant. The site will also be improved aesthetically with the addition of landscaped areas.

11. The applicant has complied with the requirements of the site plan ordinance and the overall development plan for this property constitutes a substantial upgrading of the property and is consistent with the intent and purpose of the Municipal Development Ordinance. Accordingly, the Board finds that 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. Strict application of zoning laws would result in an exceptional and undue hardship to applicant.

NOW, THEREFORE, BE IT RESOLVED by the Brick Township Planning Board on this 14th day of May, 1997, that this application be approved subject to the following conditions:

1. The applicant shall comply with all standard Planning Board conditions for 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 all the terms and conditions proposed in the report of Lynch, Giuliano and Associates dated April 23, 1997.

4. The applicant shall comply with all the terms and

conditions proposed in the report of Michael P. Fowler dated April 23, 1997. Sections V(c) and (f) is to be deleted.

5. The applicant shall comply with all the terms and conditions proposed in the report of Kevin C. Batzel dated December 20, 1996.

6. The applicant shall comply with all conditions proposed in the report in the Traffic Safety Officer dated December 19, 1996.

7. The applicant shall comply with the landscape requirements of the Trash Storage Ordinance.

8. The 2 parking stalls adjacent to Route 70 as shown on the plans are to be eliminated and that area must be curbed and landscaped.

9. The applicant shall provide 74 parking spaces, said location subject to the approval of the Board Planner and the Board Engineer.

10. The applicant shall shift the trash area one stall to the south.

11. A curbed landscaped island is to be provided at the end of each row of parking stalls in lieu of the proposed striping.

12. The 3 handicap parking spaces shall be moved to the southern side of the building, said location subject to the approval of the Board Planner and Engineer.

13. All parking for the diner shall be on site. The sign designating additional parking available at the Siperstein site shall be removed.

14. The applicant shall provide a 4 ft. board on board fence along the southwest property line.

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15. The single parking stall adjacent to the southerly property line will designated as an employee parking stall

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MOVED BY Mrs. LaDuke

SECONDED BY: Mrs. Fox

VOTING IN THE AFFIRMATIVE: Mr. Cevalasco Mrs. Fox

Mr. Haney Mrs. LaDuke Mr. Petoia Mr. Underwood

VOTING IN THE NEGATIVE:

INELIGIBLE TO VOTE:

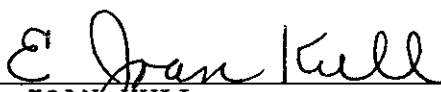
ABSTAINING:

ABSENT: Councilwoman Hartman Mr. Reo Mr. Scherer Mr. Aiello
Mr. Bruno

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 14th day of May, 1997.

IN WITNESS WHEREOF, I have set my hand this 20th day of May, 1997.


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

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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 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.