

BRICK, TOWNSHIP OF (PLANNING AND ZONING DEPT.)



LDS BR-PZ 10503871

BRICK TOWNSHIP PLANNING BOARD
MINOR SITE PLAN APPROVAL WITH VARIANCES

RESOLUTION R-68-98

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CASE NO. PB-2250-MSP-V-4/98

September 9, 1998

WHEREAS, BRICK TOWN PUBS, INC. having a mailing address of 2 Wood Land Drive, Dallas, PA 18612 has applied to the Brick Township Planning Board for minor site plan approval with variances pursuant to N.J.S.A. 40:55D-46.1, -60, and -70; and

WHEREAS, the 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 August 12, 1998 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 designated as Block 672, Lot 12 on the municipal tax map.
2. The property is located in the B-3 Highway Business Zone.
3. The applicant seeks minor site plan approval so as to upgrade the existing dumpster and trash storage area and to make certain changes to those areas, known as the Landscape Area and Terrace. The structure is a restaurant which, formerly as the Wall Street Restaurant and more recently has converted to a T.G.I.F. operation, is located on the northeasterly corner of Chambers Bridge Road and New Jersey State Highway Route 70. As a result of the change in the restaurant, changes have been made in the exterior façade. The accessory elements around the building and including the trash area,

File - 2
B.T. Pubs
Broncone
H. T. Y.
Doyle
Cunley
Bedy
Eny 2
Zoriny
COAH

however, were not reintegrated into the new exterior and there are certain changes necessary. The applicant has testified to the Board that it was prepared to make such changes as the Board would find more aesthetically pleasing and appropriate. The site in question while fronting on Route 70 is separated from the paved part thereof by reason of a right-of-way that is approximately 150 feet between the curb line and the property line. The Board would care to see this area used in a more aesthetically pleasing way, but that will take the approval of the New Jersey Department of Transportation. The property has been used in conjunction with the adjacent property known as Lot 11 sharing parking facilities and access and the ownership of said lot is in a sister corporation. While the plan submitted to the Board shows said Lot 11, it is the Board's decision that nothing in this resolution or the hearing in any way grants any approval or ratifies any specific use or change of use for Lot 11. The Board finds that the proposed changes for the trash enclosure and other facilities at the exterior of the building will make it more harmonious with the existing exterior and are therefore an improvement.

4. Lynch, Giuliano and Associates prepared a report to the Board dated June 30, 1998. 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 June 25, 1998. 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 June 10, 1998. The Board hereby adopts the findings in that report and incorporates that document in this resolution by reference.

7. The applicant seeks variances so as to continue the use of the trash enclosure notwithstanding that it does not meet the minimum side or rear setback requirements of 20 and 50 feet respectively, as zero feet is provided in both instances and in fact the enclosure encroaches upon the lot to the east. The Board finds that the granting of the variance would allow for a more desirable visual environment and thus serves the purposes of zoning. This benefit clearly outweighs any detriment for which the Board finds there is none. The Board further finds that by reason of meeting the overall Master Plan's concept of providing attractive buffering and appropriate aesthetics for commercial uses that this application will serve the public good and be consistent with the Zone Plan and Zoning Ordinance and therefore will not do substantial detriment or harm to any of these elements. The applicant has agreed to make the changes on the front of the building. They will conform with the existing façade. The trash enclosure and the changes on the rear of the property will be accomplished by the use of T-1, 111 board being installed so as to meet the look and type of material used on the immediately adjacent portion of the structure. The trash enclosure will be properly buffered on the side fronting on Route 70, by planting an appropriate number of properly spaced arborvitae.

8. The Board acknowledges that in allowing the changes, it is granting a waiver from the ordinances relative to the placement of bollards and landscaping for the construction of trash enclosures. Given the overall changes, it is reasonable to grant this waiver.

9. The Board finds that the requirements of the site plan ordinance and the plans submitted for this property are consistent with the intent and purpose of the Municipal Development Ordinance and accordingly the Board finds the benefits of the

proposal 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.

NOW, THEREFORE, BE IT RESOLVED by the Brick Township Planning Board on this 9th day of September, 1998 that the application of **BRICK TOWN PUBS, INC.** for minor site plan approval with variances be granted, 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 the following terms and conditions proposed in the report of Lynch, Giuliano & Associates dated June 30, 1998: 4, 6, 7, 8, 9, 10 and 11.

4. The applicant shall comply with those terms and conditions found in the report of Michael P. Fowler, Municipal Planner, dated June 25, 1998 in V. Comments: E, F, G and H.

5. The applicant shall comply with the terms and conditions contained in the report of the Brick Township Bureau of Fire Safety dated June 10, 1998.

6. The applicant shall advise the Board on a continuing basis at no longer than sixty-day intervals in the progress of seeking to use the state right-of-way for beautification and aesthetic purposes. On the same basis it shall also keep the Board aware of any changes with respect to the utilization by the applicant of that portion of Lot 11 or any changes in Lot 11 that would affect this parcel.

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MOVED BY:

Mr. Scherer

SECONDED

BY:

Mr. Cevasco

VOTING IN THE

AFFIRMATIVE: Mr. Cevasco Mrs. Fox Mr. Haney Mr. Kelly
Mrs. LaDuke Mr. Petoia Mr. Palmieri Mr. Scherer

VOTING IN THE

NEGATIVE:

INELIGIBLE TO

VOTE:

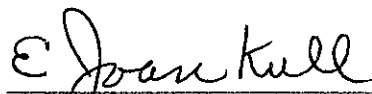
ABSTAINING:

ABSENT: Mr. Aiello Councilwoman Fayad Mrs. Paxton

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 9th day of September, 1998.

IN WITNESS WHEREOF, I have set my hand this 14th day of September, 1998.



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.