

BRICK TOWNSHIP PLANNING BOARD
PRELIMINARY AND FINAL SITE PLAN APPROVAL
WITH VARIANCES AND WAIVERS

RESOLUTION R-11-00

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CASE NO. PB-2311-PSP-V/FSP-8/99

February 16, 2000

WHEREAS, SHL BRICK, LLC, having a mailing address of 525 River Road, Edgewater, NJ 07020, has applied to the Brick Township Planning Board for preliminary and final site plan approval pursuant to N.J.S.A. 40:55D-46, 50, 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 February 2, 2000 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 672, Lot 8, on the Municipal Tax Map.
2. The property is located in the B-3 Business Zone.
3. The applicant proposes to demolish and abandon the service station having 8,140 square feet and build upon the approximate location thereof a furniture store of 25,500 square feet. The other existing structure of 40,142 square feet will continue to be divided with one store to be known as "Bed Bath and Beyond". The other portion of that building will be used for general retail purposes. The application also indicates parking facility changes. As a result of the several hearings conducted on this matter, there is also to be increased and improved landscaping as well as greenbanked parking spaces. The

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Zoning
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application is contained in plans entitled "Brick Center Plaza, Block 672, Lot 8, Township of Brick, Ocean County, New Jersey", prepared by Alan H. Veverka, P.E., P.P., of D. W. Smith Associates, P.A. and such subsequent revisions as have been made thereto. The Board finds that this site has minimal landscaping presently of no more than three (3%) percent of the site. In fact, the ground cover for the site is almost exclusively pavement. The pavement itself is in bad repair and poorly striped. The changes to be made, particularly as conditioned herein, represent a significant improvement. The furniture store, though larger than the existing structure, will be a more attractive building than the abandoned gas station presently there. This site is in the central business portion of the township and is very visual to a significant amount of traveling public. It is therefore of significant importance that this site be properly designed and landscaped. In view of the significant traffic on site, off site and circulating throughout the site, appropriate provisions must be made for traffic safety.

4. (a) Lynch, Giuliano and Associates prepared a second review report to the Board dated February 2, 2000 relating to the site plan. The Board hereby adopts the findings in that report and incorporates that document in this resolution by reference.

 (b) Lynch, Giuliano and Associates prepared a second review report to the Board dated February 2, 2000 relating to the traffic aspects of the plan. 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 February 1, 2000. The Board hereby adopts the findings in that report and incorporates that document in this resolution by reference.

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6. The Bureau of Fire Safety prepared a report to the Board dated December 7, 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 October 8, 1999. The Board hereby acknowledges the findings in that report.

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) Front yard setback whereas 75 feet is required along Brick Boulevard and 48.5 feet is provided;

(b) Rear yard building setback whereas 50 feet is required and 31.9 feet is provided adjacent to Lot 6, Block 672;

(c) Whereas 25% maximum building coverage is allowed and 28.8% is proposed;

(d) Whereas there is minimum required landscape area whereas 25% is required and 14% is provided;

(e) Off street parking; whereas 511 spaces are required and 400 spaces, including 32 greenbanked spaces, are provided exclusive of those on Lot 11 subject to a common parking easement;

(f) Parking space size: whereas 10 x 20 is required and 9 x 20 and 9 x 18 spaces are proposed;

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(g) Off street parking setback: whereas 10 feet is required from an adjacent property line, zero feet is proposed with respect to Lot 3, Block 672;

(h) Off street parking setback: whereas 20 feet is required from a street right of way and 3 feet is proposed;

(i) Size of signs: whereas 50 square feet is allowed and the applicant is proposing a sign which will not exceed 170 square feet;

(j) Sign setback: whereas 25 feet is required and zero feet is provided with respect to an existing sign on Brick Boulevard;

(k) Minimum side yard setback: whereas 20 feet is required and 9 feet is provided;

(l) Minimum rear yard setback for accessory building: whereas 50 feet is required and 30 feet is provided;

(m) Double frontage: whereas double frontage lots for non-corner lots are not permitted. This non-corner site does have frontages on Chambers Bridge Road and Brick Boulevard.

The Board finds that this is a long-standing site with significant present limitations relating to its two frontages, the existing structure that will remain, the nature, size, location and dimension of the parking facility. As a result, and as detailed on the engineering planner's report, almost all of the variances sought are for existing conditions. The most significant of these in the Board's determination is the landscaped area. There the amount of landscaping will increase by nearly 500% representing a significant improvement. The size of the parcel cannot mathematically provide both sufficient parking and sufficient landscaped area. Given these existing conditions the

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Board finds that the benefits provided by the proposal outweigh the detriments. The site when completed in compliance with this resolution will have safe traffic conditions, sufficient and appropriately located parking and improved landscaping. This will make the site significantly more attractive and generally consistent with the overall intent of the zoning ordinance and its site plan provisions. Therefore the proposal provides for a better zoning alternative than could possibly otherwise exist. To rigorously oppose each of the standards contained in the ordinance would mean either the demolition of a portion of the existing building that will remain, or the withdrawal of the application. This would leave this site in its current and unacceptable circumstance. For these reasons the Board determines that it can and shall grant the variances sought.

10. The applicant seeks the following waivers:

(a) The applicant does not provide a storm water management report where one is required;

(b) The applicant does not provide soil boring logs whereas they are required;

(c) A minimum aisle width of 24 feet is required whereas the applicant proposes 20 feet in the rear of the existing retail building;

(d) Trash enclosures are required to be landscaped on three (3) sides where the applicant proposes no landscaping around the trash compactors;

(e) Landscaped islands are required at the end of every row of ten (10) parking stalls whereas the applicant has rows of 11 to 16 parking stalls without landscaped islands at the end;

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(f) The applicant does not provide the required loading area for each business onsite;

(g) The applicant proposes a driveway in excess of forty (40) feet notwithstanding the requirement that no driveway in excess of twenty-eight (28) feet be created without having a divider separation;

(h) The applicant proposes driveways in excess of forty (40) feet and whereas thirty-five (35) feet is the maximum allowable width;

(i) The applicant has frontage on Brick Boulevard wherein no landscape, berm or street trees will be provided as required by ordinance.

Again, this site has significant limitations as a result of existing conditions. The imposition of these standards would render an undue hardship upon the applicant. It would unduly limit the applicant's ability to try to improve the site so as to bring it into greater conformance with the standards. The imposition of certain of these standards such as increased parking and increased landscaping at the same time are mutually exclusive. The Board determines that the conditions imposed herein upon the approval of this application do reflect a minimization of the waivers sought and does provide a better zoning alternative. Therefore the waivers that are sought are 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

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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 Township Planning Board on this 16th day of February, 2000, 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. (a) The applicant shall comply with the following paragraphs contained in the site plan report of Lynch, Giuliano and Associates dated February 2, 2000: General Comments: 3, 4 and 5; Grading Comments: 1, 2, 3, 4, 5, 6; Storm Sewer Collection System: 1, 2, 3; Landscaping/Lighting: 1 and 2; Construction Details: 1; Misc.: 1, 2, 3 and 4.

(b) The applicant shall comply with the following paragraphs contained in the traffic report of Lynch, Giuliano and Associates dated February 2, 2000: Onsite Traffic Conditions: All comments from A to O shall be met by the applicant.

4. The applicant shall comply with the following paragraphs contained in the report of Michael P. Fowler, Municipal Planner, dated February 1, 2000: V. Comments: B, C, D and F.

5. The applicant shall comply with the comments contained in the report of The Bureau of Fire Safety dated December 7, 1999.

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6. The applicant shall comply with the comments contained in the report of the Shade Tree Commission dated November 14, 1999.

7. Consistent with the findings contained hereinabove and the desire of the Board to provide meaningful conditions upon the revisions to this site and the maintenance of this property, the Board imposes the following conditions upon this approval. The Board determines that these conditions shall continue throughout the maintenance of the site and until specific application is made to the Board and any revisions are granted based upon such further application and public hearing:

(a) Notwithstanding the waiver provided for soil boring logs in general, they shall be provided when the furniture store is constructed.

(b) Of the 400 parking spaces to be provided, 32 shall be greenbanked and they shall be generally in a row being closest to Chambers Bridge Road. No changes shall be made by way of additional greenbanking or converting the greenbank spaces into paved spaces without a resolution of this Board approving such change.

(c) All parking areas shall be repaved. The topcoat and parking stall striping shall thereafter take place consistent with this resolution and the recommendations of the Planning Board Engineer.

(d) The applicant shall supply to the satisfaction of the Planning Board and its attorney documentation regarding cross access and common parking easement on Lot 11, Block 672.

(e) All mechanicals for both stores shall be properly shielded on all four sides so that the mechanicals shall not be visible and noise and other results from said mechanicals shall be minimized.

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- (f) Left turns from the Chambers Bridge unsignalized exit shall be prohibited.
- (g) The applicant shall provide a two-foot berm along the frontage on Chambers Bridge Road which shall be planted and irrigated.
- (h) No trailers shall be allowed on the site except at the loading bays and shall not be allowed to remain there overnight for more than two consecutive nights.
- (i) The applicant will contact the Ocean County Engineering Department to change the timing of the lights on Route 70 and Chambers Bridge Road and shall make the Planning Board Engineer aware of all applications, responses, meetings or hearings concerning the same and provide the Planning Board Engineer with an opportunity to attend any such meetings or hearings. Any sign to be located on the façade of the furniture store shall not be presented to the Board for review and approval before it is installed.
- (j) There shall be no more than two (2) free standing signs for the entire site regardless of the number of uses or frontages the site has.
- (k) The furniture store shall not provide, house or have located thereon any warehouse meant for delivery of furniture or goods to be sold.

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MOVED BY:

Mrs. Fox

SECONDED

BY: Mr. Kelly

VOTING IN THE

AFFIRMATIVE: Mrs. Fox Mr. Kelly Mrs. LaDuke

Mr. Petoia Mr. Reilly

VOTING IN THE

NEGATIVE:

INELIGIBLE TO

VOTE: Councilman Cucci Mr. Palmieri Mrs. Paxton Mr. Scherer

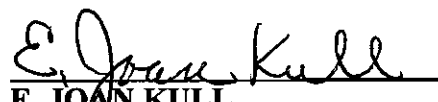
ABSTAINING:

ABSENT: Mr. Bayard

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 16th day of February, 2000.

IN WITNESS WHEREOF, I have set my hand this 7th day of March , 2000.


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.

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.