

**MARLBORO TOWNSHIP PLANNING BOARD
RESOLUTION NO. PB 1227-21**

**IN THE MATTER OF 45 ROUTE 520,
LLC FOR CONSTRUCTION OF A TWO-
STORY OFFICE BUILDING WITH
ADDITIONAL 149 PARKING SPACES
WITH A VARIANCE FOR MAXIMUM
PERCENTAGE OF IMPERVIOUS LOT
COVERAGE.**

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

**Block 268, Lots 66, 67, 68 & 69
Marlboro Township, Monmouth County
Zone: OPT-1 (Office Professional
Transitional District – 1)
Application No. PB 1227-21
Approval Date: May 4, 2022**

BE IT RESOLVED, by the Marlboro Township Planning Board (“Board”) that the action taken on **May 4, 2022**, on the above referenced matter, is hereby memorialized by the adoption of this written resolution setting forth the Board’s Findings and Conclusions.

RELIEF SOUGHT AND JURISDICTION

1. Project Description

The subject 3.50-acre properties are within an OPT-1 Zone District and contain 498 feet of frontage along the south side of Route 520, approximately 400 feet east of the Route 9 intersection. Currently, Lot 66 contains a 1-story dwelling and an asphalt driveway, Lot 67 contains a 1-story dwelling and a detached garage with driveway, Lot 68 contains a 1-story dwelling and driveway, and Lot 69 contains a 2-story office building with 38 parking spaces and a full movement driveway. In addition, Lot 69 is serviced by municipal water and sanitary sewer systems and both an above ground and underground basin. Landscaping and lighting improvements as well as a refuse enclosure, and a monument style sign also exist onsite. The improvements on Lot 69 were approved June 7, 2017 under Resolution No. PB 1156-17.

A previous application was approved in 2020 under Resolution No. PB 1200-20 to expand the subject commercial development from Lot 69 to adjacent Lots 67 and 68 by constructing a 24,116 sf office building in addition to the existing building, with a second driveway access to Route 520. Construction on this application has not commenced. The Applicant is now proposing a similar project to what was improved in 2020; however, this time including Lot 66 in the application.

The Applicant is now proposing to retain all improvements on Lot 69 and to construct a 2-story office building (15,000 sf footprint, 30,000 total sf) with an additional 149 parking spaces (187 total spaces) on the remaining properties. An additional right-in only driveway is proposed along Route 520 near the westerly tract boundary, as well as two interconnecting interior driveways between the subject properties. The office building is to be serviced by municipal water and sanitary sewer system and additional above ground and underground basins are proposed. Additional improvements include landscaping, lighting and refuse enclosures. The project also includes a 25-foot-wide right-of-way dedication to Monmouth County along the property frontage with pavement widening along the proposed improvements.

2. Surrounding Uses

Properties east and west of the subject site along the Route 520 corridor are similarly zoned OPT-1 and contain a commercial use at the Route 9 intersection and a mix of single-family residential dwellings, as do properties to the northeast opposite Route 520 which are zoned R20. Properties south of the subject site are zoned C-3 and contain the Marlboro Plaza shopping center. Properties northwest of the site opposite Route 520 are zoned OPT-2 and contain a mix of commercial uses.

3. Zoning Compliance

The subject site is situated within an OPT-1 Zone District. The table below summarizes the zoning requirements and bulk measures for the property following the proposed Monmouth County right-of-way dedication:

DESCRIPTION	REQUIRED	PROPOSED
Minimum Lot Area	30,000 sf	138,310 sf (after Township dedication)
Minimum Lot Frontage	100 feet	497.8 feet
Minimum Lot Width	100 feet	497.8 feet
Minimum Lot Depth	150 feet	± 277 feet
Minimum Front Yard Setback	40 feet	± 100 feet
Minimum Side Yard Setback	10 feet	18 feet
Minimum Rear Yard Setback	20 feet	23 feet
Maximum Building Height	35 feet	35 feet
Minimum Front Yard Setback (Accessory)	40 feet	N/A
Minimum Side Yard Setback (Accessory)	10 feet	N/A
Minimum Rear Yard Setback (Accessory)	10 feet	N/A
Maximum Building Height (Accessory)	15 feet	N/A
Minimum Gross Floor Area	1,200 sf	39,360 sf
Minimum Ground Floor Area	1,000 sf	19,680 sf
Maximum Percentage of Lot Coverage by Buildings and Structures	25%	14.2%
Maximum Percentage of Impervious Lot Coverage	50%	59.6% (V) [1]

(EC) – Existing Condition (V) – Variance Required

Note [1]: The Applicant shall verify that the denominator in the impervious coverage calculation utilized the new lot area following the Monmouth County right-of-way dedication. The total impervious coverage appears to be larger than what is requested.

VARIANCES

4. Applicant has requested the following variances with this application:
- a) **Section 220 - Attachment 9** – The maximum permitted percentage of impervious lot coverage is 50%; whereas the Applicant has requested an impervious coverage of 59.6%. The Applicant shall verify this number is correct given the reduced lot area following the right-of-way dedication.
 - b) **Section 220-97B** – Parking spaces shall measure 10 feet by 20 feet; whereas 9 feet by 18 feet parking spaces are proposed.
 - c) **Section 220-35D(24)(e)** – The maximum grade for lawns within five (5) feet of a building shall be 10%, and for lawns more than five feet from a building, 25%; whereas the proposed slopes are as high as 33% beyond five (5) feet from the building.
 - d) **Section 220-95A** – Fences shall be open fences not to exceed three feet in height above ground level when located in a front yard area or fences shall not exceed six feet in height above ground level in any side or rear yard areas; whereas a four (4) foot tall post and rail fence is proposed around the proposed aboveground basin within the front yard.
 - e) **Section 220-97A(5)** – Parking areas may be located in any rear or side yard, but may not be located in any required front yard; whereas parking is proposed in the front yard.
 - f) **Section 220-97D** – Sidewalks with a minimum width of four feet shall be provided in all parking areas for five or more vehicles, between parking areas and principal structures, along aisles and driveways and wherever pedestrian traffic shall occur. Sidewalks must be raised six inches above the parking area except where crossing streets or driveways, and curbed as a protection to pedestrians using the walks. Sidewalks and parking areas must be arranged to prevent cars from overhanging or extending over sidewalk areas. Sidewalk is not proposed at all rows of parking stalls.
 - g) **Section 220-97E(4)** – Parking areas for more than 20 vehicles require islands a minimum of 6 feet wide between rows of parking; whereas no islands are proposed between the parking rows perpendicular to Route 520, near the east end of the property, along Lot 68 and Lot 69.
 - h) **Section 220-99B(2)** – No part of any sign shall be located closer to any lot line than 10 feet or a distance equal to the height of the sign, whichever is greater; whereas the existing monument sign is located approximately five (5) feet from the new right-of-way line.

WAIVERS

5. Applicant has not requested any design waivers; however, the following design waivers are also required:
- i) **Section 220-137D(18)** – Soil and Groundwater Conditions Report

- j) **Section 220-152.1A(1)** – Materials used in the construction of storm sewers shall be constructed of reinforced concrete, ductile iron, corrugated aluminum or corrugated steel unless site and other conditions dictate otherwise; whereas plastic storm sewer pipe is proposed.
 - k) **Section 220-169E** – Access points shall be at least 40 feet from any property line. For all uses, curbing shall be either depressed at the driveway or rounded at the corners and the driveway connected with the street in the same manner as another street. The proposed driveway is approximately 23 feet from the western property line and curbing is not proposed within the right-of-way at the beginning of the driveway.
6. Applicant has not requested any waivers from providing checklist submission items, however, the following required submission items should be provided or waivers requested:
- a. Completed Site Plan Checklist.
 - b. **Checklist IV Item o** – Proposed on-site circulation system for both pedestrians and vehicular traffic, including sidewalks.

THE APPLICANT

7. The Applicant is 45 Route 520, LLC (Felix Bruselovsky), 79 Route 520, Englishtown, New Jersey 07726.
8. The Applicant has certified that all property taxes for the subject property and all escrow fees required under the applicable ordinance(s) for such an application have been paid. This certification includes an agreement to pay all future monies due under the escrow ordinance for consultants and other professional work on the property.
9. The Applicant has submitted an affidavit of proof of service of Notice published in the Asbury Park Press. The proof of service comports with the notice before the board that this matter is of a character that the applicant has presented to the Board.

THE HEARING

10. On **May 4, 2022**, a public hearing took place before the Marlboro Township Planning Board at the Marlboro Township Municipal Building, located at 1979 Township Drive, Marlboro, New Jersey 07746-2299.

DOCUMENTS/PLANS PRESENTED

11. The following documents were presented to the Board:
 - Cover Letter prepared by Challoner & Associates, LLC, dated January 26, 2022
 - Preliminary and Final Plat – Major Site Plan (9 Sheets), prepared by Challoner and Associates, LLC dated October 7, 2021, last revised January 25, 2022

- Architectural Floor Plans and Elevations (2 sheets), prepared by Michael V. Testa, Architect, dated December 16, 2019, last revised, January 25, 2022
- Boundary Survey of Block 268, Lot 66, prepared by Challoner and Associates, LLC, dated August 30, 2021, unrevised
- Boundary Survey of Block 268, Lot 67, prepared by Challoner and Associates, LLC dated June 21, 2019, last revised July 8, 2019
- Boundary Survey of Block 268, Lot 68, prepared by Challoner and Associates, LLC dated June 21, 2019, last revised July 8, 2019
- Survey of Block 268, Lot 69, prepared by Challoner and Associates, LLC dated July 23, 2019, unrevised
- Parking Analysis prepared by McDonough & Rea Associates, Inc., dated January 21, 2022
- Geotechnical Investigation and Permeability Testing prepared by Simon Engineering LLC, dated November 18, 2019
- Environmental Impact Statement prepared by Stuart Challoner, P.E. of Challoner & Associates, LLC, dated January 25, 2022.

EXHIBITS

12. The following Exhibits were presented to the Board:

- A -1 Planning Board Application
- A -2 Affidavit of Completeness
- A -3 Submission Documents
- A -4 PLAT Requirements
- A -5 Disclosure Statement
- A -7 Planning Board Consent
- A -8 Variance Application
- A -9 Affidavit of Completeness
- A -15 Marlboro Township Requirement, Codes
- A -16 Traffic Report by McDodough and Rea.
- A -17 Monmouth County Site Plan Application
- A -18 Proposed Floor Plans and Elevations

- A – 19 Stormwater Report
- A – 20 Preliminary and Final Major Subdivision
- A – 21 Consent of Owner to Applicant
- A – 22 Indemnification and Hold Harmless Agreement
- A – 23 Resolution PB#1200-20
- A – 24 Monmouth County Site Plan Action
- A – 25 Site Plan Review #1, dated December 21, 2021
- A – 26 Environmental Impact Statement, prepared by Stuart Challoner, P.E., of Challoner & Associates, LLC, dated January 25, 2022.
- A – 27 Proposed Floor Plans
- A – 28 Boundary Survey
- A – 29 Geotechnical Investigation and Permeability Testing, prepared by Simon Engineering, LLC, dated November 18, 2019
- A – 30 Revised Site Plans, dated January 25, 2022
- A – 31 Parking Analysis
- A – 32 Township Fire Review Report
- A – 33 Township Traffic Bureau Report
- A – 34 Freehold Soil Conservation District Review
- A – 35 Engineer and Planning Review #2, dated February 17, 2022
- A – 36 Area Site Rendering (Page 1)
- A – 37 Area Site Rendering (Page 2)
- A – 38 Freehold Soil Conservation District Certificate
- A – 39 Monmouth County Planning Board Site Plan Application

TOWNSHIP REPORTS/MEMORANDUM

13. The following professional reports were presented to the Board:
- a) CME Reports by Laura J. Neumann, P.E. P.P., dated February 16, 2022, revised February 17, 2022.
 - b) Township Fire Report, dated February 22, 2022

TESTIMONY AND PUBLIC INPUT

14. At the hearing on **March 4, 2022**, the Applicant was represented by Ken Pape, Esq., who presented five (5) witnesses: Stuart Challoner, P.E., Applicant's Engineer; John Rea, Applicant's Traffic Engineer; Michael Testa, AIA, Applicant's Architect; Allison Coffin, Applicant's Planner; and Felix Bruselovsky, the Applicant/Owner.
- a. **Stuart Challoner, Applicant's Engineer**, testified before the Board, as to the development history of the subject parcel. He stated that this would be a Medical Arts Building and pointed to Exhibit A – 36. He said that the hours of operation would be for a normal medical arts building. It would also be typical for traffic refuse management and parking. He stated that the Applicant would adhere to all requirements in the February 17, 2022 CME report. He stated that there are retaining walls on the property that would be Compliant with local ordinance. Specifically, with regard to parking, he said there were 188 total spaces, which are appropriate for general office and/or medical office use. He stated that the Applicant would work with the Township regarding putting sidewalks in front of the property but that this would be up to the County to decide since they were looking to widen the road through donation. He stated that crossing easements would be provided and would remain in place. He also stated that the landscaping buffer, which is appropriate, would remain. With regard to truck use of the property, he stated it would be small box trucks for loading and unloading purposes. He stated that they would adhere to the Township Fire Report in that the property would be given proper access for firefighting vehicles. With regard to signage, he stated that there would be one monument sign, which would be properly landscaped. He stated that the (4) existing lots will be consolidated into one new lot. He stated that with regard to the retaining walls near Route 520, that they would be relocated if the road was widened.
 - b. **John Rea, Applicant's Traffic Engineer**, testified before the Board that the site met all parking ordinance requirements and that it would function efficiently.
 - c. **Allison, Coffin, Applicant's Planner**, testified before the Board that the variances and waivers sought for the site should be granted, since they satisfied the positive and negative criteria for such an application with regard to the bulk variance sought.

15. Members of the public who spoke in regard to this application:
 - None
16. The following Township staff/professionals gave advice to the Board:
 - a. Michael W. Herbert, Esq., Planning Board Attorney
 - b. Laura J. Neumann, PE, PP, Planning Board Engineer and Planner

BOARD CONCLUSIONS

17. Board Findings with regard to Approval of this application:
 - I. The Board found in favor of granting the application for the construction of a two-story office building with additional 149 parking spaces with a variance for maximum percentage of impervious lot coverage. The Board found that the application was appropriate, in that it met most ordinance requirements and sought to fulfill what the Master Plan foresaw for this area of the Township.
 - II. The Board finds that there is a positive impact upon the area in the granting of the Subdivision and Site Plan because it fills out the rest of the proposed site.

CONDITIONS OF APPROVAL

18. The Board finds that in order to address concerns expressed in the course of the hearings, and to limit the relief to that which is reasonably necessary to satisfy the Applicant's legitimate requirements, the relief granted is subject to the following conditions:
 - a. A landscape buffer and berm were provided for Lot 68 in conjunction with the assisted living home application opposite Route 520. These trees have now established and are in excellent condition.
 - b. Applicant shall provide the proximity of the existing and proposed retaining walls to the Route 520 right-of-way dedication, which appear to be located on the property line.
 - c. Applicant shall provide the proposed Stormwater Management Plan for the site and compliance with NJDEP requirements regarding quantity, quality, groundwater recharge, and green infrastructure.
 - d. The proposed aboveground basin discharges Stormwater to a bubbler inlet near the northwest corner of the property that will ultimately release water at grade directly to Route 520. The Applicant shall verify if there are any existing Stormwater pipes in Route 520 that the basin can connect to or if Monmouth County has approved this design. The current design would also result in standing water at all times within the inlet.

- e. Applicant shall be in compliance with Ordinance Article IV, Standards of Performance, regarding but not limited to: noise; glare; pollutants; solid/liquid wastes; refuse management, including mandatory recyclables, etc. should be discussed with the Board.
 - f. If there were any drainage issues from the site that caused damage to neighboring properties, Applicant shall have to come back before the Board.
 - g. Applicant shall comply with all requirements and testimony placed upon the record at the hearing for Resolution of Approval.
 - h. Applicant shall comply with all requirements of the CME Report by Laura J. Neumann, PE PP, dated February 16, 2022, revised February 17, 2022.
19. This application may be subject to the following outside agency approvals:
- a. Monmouth County Planning Board
 - b. Freehold Soil Conservation District
 - c. Marlboro Township Environmental Commission
 - d. Marlboro Township Fire Department
 - e. Marlboro Township Police Department
 - f. Marlboro Township Water Department
 - g. Western Monmouth Utilities Authority
 - h. All other outside agency approvals as may be required. The Applicant shall address the Board regarding the status of outside agency approvals for the project. In addition, copies of all outside agency approvals shall be forwarded to our office.

CONCLUSION

Based upon the foregoing, the Marlboro Township Planning Board, at its **May 4, 2022** meeting, voted to approve the application for approval of the construction of a two-story office building, with additional 149 parking spaces, with a variance for maximum percentage of impervious lot coverage.

This Resolution of Memorialization was adopted **June 1, 2022** by a vote of the majority of the members present, who voted to approve the relief sought by the Applicant.

The date of decision shall be **May 4, 2022** except that the date of the adoption of this memorializing resolution is the date of decision for the purpose of (1) mailing a copy of the decision to the

Applicant within ten (10) days of the date of this decision; (2) filing a copy of the decision with the administrative officer; and (3) publication of a notice of decision. The date of the publication of the notice of decision shall be the date for the commencement of the vesting protection.

**ROLL CALL VOTE ON MOTION FOR
CONSTRUCTION OF A TWO-STORY OFFICE BUILDING WITH ADDITIONAL
149 PARKING SPACES WITH A VARIANCE FOR MAXIMUM PERCENTAGE OF
IMPERVIOUS LOT COVERAGE
MAY 4, 2022**

Moved By: Dr. Adler

Seconded By: Andrew Pargament

Those In Favor: Dr. Adler, Antoinette DiNuzzo, Neil Betoff, Rohit Gupta,
David Gagliano, Lynn Franco, Chairman Mark Barenburg,
Steven Kansky, and Andrew Pargament

Against It:

Those Absent: Andrew Kessler

Present But

Ineligible to Vote:

**ROLL CALL VOTE ON MOTION TO APPROVE
RESOLUTION OF MEMORIALIZATION
JUNE 1, 2022**

Moved By: Dr. Adler

Seconded By: Andrew Pargament

Those in Favor: Antoinette DiNuzzo, Neil Betoff, Andrew Pargament, Lynn Franco, Dr.
Adler, Steven. Kansky and Chairman Barenburg

Those Opposed:

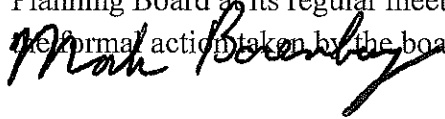
Those Absent: Rohit Gupta, Dave Gagliano

Present But

Ineligible to Vote:

CERTIFICATION

I do hereby certify that the foregoing resolution was adopted by the Marlboro Township Planning Board at its regular meeting held on **June 1, 2022**. The Resolution memorializes the formal action taken by the board at this regular meeting held on **May 4, 2022**.



Mark Barenburg, Chairman
Marlboro Township Planning Board