

WESTAMPTON TOWNSHIP LAND DEVELOPMENT BOARD

OCTOBER 3, 2018

REGULAR MEETING 7:00 P.M.

AGENDA

1. Call meeting to order
2. Requirements of the Sunshine Law. This meeting was advertised in the Burlington County Times on January 5, 2018 and posted in the Municipal Building.

Pledge of Allegiance

3. Welcome to guests
4. Roll Call: Mr. Applegate, Mr. Barger, Mr. Blair, Mr. Borger, Mr. Freeman, Mr. Guerrero, Ms. Haas, Mr. Henley, Mr. Mumbower, Mr. Myers, Mr. Wisniewski, Solicitor Lou Capelli, Engineer Jim Winckowski, Planner Barbara Fegley, Secretary Marion Karp
5. Swear in Board Professionals
6. Approval of Meeting Minutes 7/11/2018
7. Resolutions: approval needed:
 - 17-2018 APCO Petroleum Corporation, Block 904, Lot 2 (2036 Burl.-Mt. Holly Rd.) – request for 1 year extension
 - 18-2018 Inductotherm, Block 403, Lot 1 (10 Indel Avenue) – site plan waiver (public water service hook up and associated improvements; foundation for future picnic pavilion for employees)
 - 19-2018 Shayona Donuts, LLC, Block 904, Lot 3.01 (Burl.-Mt. Holly Rd. & Western Drive) - amended preliminary & final major site plan (construction of a Dunkin Donuts)
 - 20-2018 SBC Laundromat, Inc., Block 301, Lot 2 (483 Woodlane Road) – preliminary and final major site plan – (construction of 11,780 sq. ft. retail building and 4,671 sq. ft. car wash facility) – continued from 6/6/2018 meeting
8. Old Business: none

9. New Business:

1. Mark & Lorin Arnold, Block 909, Lot 9 (221 Tulip Tree Drive) – variances to allow for construction of 24 x 40 foot garage

10. Informal Applications: none

11. Correspondence: none

12. Open meeting for public comment

13. Comments from Board members, Solicitor, Engineer and Secretary

14. Adjourn

DRAFT

WESTAMPTON TOWNSHIP LAND DEVELOPMENT BOARD

REGULAR MEETING

JULY 11, 2018 7:00 P.M.

MINUTES

The regularly scheduled meeting of the Westampton Township Land Development Board was held at the Municipal Building on Rancocas Road on July 11, 2018 at 7:00 P.M. The meeting was called to order by Chairman Gary Borger and the opening statement required by Sunshine Law was read. This meeting was advertised in the Burlington County Times on January 5, 2018 and posted in the Municipal Building. All guests were welcomed.

Everyone stood for the Pledge of Allegiance.

Roll Call: Present: Mr. Applegate, Mr. Barger, Mr. Blair, Mr. Borger, Mr. Freeman, Mr. Guerrero, Ms. Haas, Solicitor Robert Swartz, Engineer Jim Winckowski, Planner Tim Kaluhiokalani, Secretary Marion Karp

Absent: Mr. Henley, Mr. Myers, Mr. Mumbower, Mr. Wisniewski

The minutes of the June 6, 2018 meeting were approved with 2 minor changes.

Resolutions:

12-2018 SBC Laundromat, Inc., Block 301, Lot 2 (483 Woodlane Road) – preliminary and final major site plan – (construction of 11,780 sq. ft. retail building and 4,671 sq. ft. car wash facility) – continued until 7/11/2018 meeting – was memorialized.

13-2018 Rob Carter, Block 1002, Lot 2, (3 Gilbert Road) – variance (pole barn) – was memorialized.

14-2018 National DCP, LLC, Block 202, Lot 3 (20 East Park Drive) – site plan waiver (pre-fab guard shack & 40 x 60 open car port) – was memorialized.

15-2018 Dolan Group VII, LLC, 80 Stemmers Lane, Block 203, Lot 7.01 – request for 1-year extension – was memorialized.

16-2018 Dolan Contractors, Inc., 97 Stemmers Lane, Block 203, Lot 6.04 – request for 1-year extension – was memorialized.

APCO Petroleum Corporation, Block 904, Lot 2 (2036 Burl. -Mt. Holly Rd.) – request for 1-year extension. The applicant's attorney, Kevin Moore, asked Chairman Barger if they could be heard first on the agenda since it was a very simple matter. There was no objection by any other applicant, so it was granted. For the record, Board

member David Barger recused himself and would not vote since he has done work for this applicant. The original site plan approval had been granted back in 2012; they had come back before the Board twice and had secured 2 one-year approvals, the last of which had run out on 6/30/18. They have had some economic difficulties and they are recovering; they hope to start on the project this year. There are no changes to the site plan.

The meeting was opened to the public for comment. No comment was made and the meeting was closed. This would be the final extension available to the applicant.

Mr. Applegate made a motion to approve the extension; the motion was seconded by Ms. Haas. Mr. Applegate, Mr. Blair, Mr. Borger, Mr. Freeman, Ms. Haas and Mr. Guerrero all voted yes.

Old Business:

SBC Laundromat, Inc., Block 301, Lot 2 (483 Woodlane Road) – preliminary and final major site plan – (construction of 11,780 sq. ft. retail building and 4,671 sq. ft. car wash facility) – continued from 6/6/2018 meeting. Brian Cleary, engineer, Frank Lash, and architect Kim Lee were present, Nathan Mosley, traffic engineer was sworn in as he did not attend the prior meeting. Revised plans had been submitted since that time. Changes to the plan include a different color brick, reddish in color, instead of the black brick proposed at the June meeting. Dave Barger feels this is a much better color and adds commonality to the new structure. Mr. Lee had samples of the individual mounted letter signage that would be installed on top of the canopies of each of the stores. Dave Barger asked if the signage would be illuminated; the architect answered that they would be. He was concerned that if a tenant came in with a long name that it would not fit; the architect wasn't concerned and thought it would be able to fit. The space allowed for each tenant is 3 feet by 15 feet. They hoped for a clean, modern look for the signage. They would like to use black lettering for all tenants but aren't absolutely sure; Gene thought the black letters wouldn't "pop" but would blend into the background. The architect still wanted the black letters and they would be up-lit. They wanted consistency across the building. Mr. Freeman had concerns regarding the coming and going of tenants and wanted consistency maintained. Jim Winckowski explained that the code dictates that the signage must be uniform. If a chain came in that wanted a different type of sign, they would have to come back before the Board.

Brian Cleary, applicant's engineer testified regarding the site plan changes. They got rid of the vacuum canopies; they also propose to reduce the size of the menu boards from 32 feet to 24 feet in size; however, they still want 2 menu boards to ease operations. Gene had suggested they install only 1 menu board at the last meeting. The average lighting level proposed is 1.4-1.2 foot candles; maximum permitted by township ordinance is .5 foot candles. They agree to revise the directional sign to meet ordinance requirements. The height of the proposed monument sign is 15 feet, maximum allowed by ordinance is 8 feet; what is out there currently is 15 feet. They are not proposing a loading space. Vacuums will be pay vacuums and the canopies

proposed are not being constructed; there will be 16 vacs in total. Jim Winckowski asked how wide the vacuum apparatus was; they are 27 inches in width. There will be 4.5 feet of sidewalk left, which is wide enough. They could add bollards since the vacs are shown right at the edge of the curbing with nothing to protect them from vehicles. Jim suggested that they might lose a few vacuums due to space considerations. Parking spaces at the vacuums will be 11 feet in width.

Nathan Mosely, traffic engineer testified regarding stacking space at the carwash. There will be two pay kiosks for cars to line up; these express car wash facilities are designed to move vehicles through quickly; the tunnels are designed to process multiple vehicles at a time. The payment kiosks can process up to 70 vehicles per hour; they can process 120 vehicles an hour if they need to. They have stacking for 14 vehicles without affecting internal flow at the site. There is a site on Route 70 near Route 295 on the eastbound side, called Diamond; it is a very similar looking facility to what is proposed here. They went out there on a Friday and again on a Saturday to observe; there were about 27 vehicles per hour on Friday and on Saturday about 34 vehicles per hour. They also compared data from November to February and found that vehicles were processed quickly with no problems. This design is more than sufficient for even the busiest times. Most people will use this facility on a regular basis. The facility is very mechanized and runs pretty much by itself.

Ms. Haas asked the traffic engineer if they looked at the traffic that exists currently at the intersection; they are working on this right now for the County, it is a County requirement that they provide a traffic study. Jim Winckowski suggested a stop bar or cross hatched striping to prevent cars from entering the carwash from the vacuum area. Dave Guerrero asked what vehicles would do if they wanted to pull into the vacuum area and no spaces were available. They could provide a turn-around area if necessary. Jim said if it becomes a problem they could stripe a space for the turn-around.

Bill Freeman asked how the machinery is able to get rid of the salt in the water during the winter months. Mr. Lash explained that salt is the easiest thing to remove from a car. He said that any salt left in reclaim water is very minimal, it settles out. The systems are very carefully engineered.

What was going to be sold in the store was discussed; they would offer car related items like air fresheners, windshield wipers, etc. for sale. They would have some snacks and drinks available for sale. They stated that there will be no prepared foods sold. Hours are from 8 AM to 6 PM, later in the summer. Dave Barger remarked that it is a pretty large store just for selling things such as this. The convenience store would be open the same hours as the car wash. There would be an employee for the convenience store, for a total of four employees.

Dave Barger was concerned about noise from the daytime operation of the vacuums; he wondered how loud they were. Their engineer stated they have to meet regulations both for daytime and nighttime hours and cannot exceed these. These are general

noise pollution standards, not specific to this site, as stated by Jim Winckowski. They can provide decibel levels for the air dryers and they could add mufflers if needed. Jim said anything regarding noise levels would be complaint based; no one would be checking on it. Bill Freeman asked if anyone went into the adjacent neighborhood to check sound, Pat McAndrew stated that they had not.

There were concerns regarding ice buildup in the winter; the applicants explained that the entrance and exit pads were heated and a drain would be installed at the exit of the carwash as well. Vinyl fence would be installed in lieu of sidewalk; white vinyl is shown on the plan. Gene Blair stated that the adjoining subdivision does have white vinyl installed across the rear; Dave Barger wanted tan fencing but the Board wants it white to be consistent with the fencing already installed in the area.

The applicants have agreed to address all the engineer's remaining comments; the only issue was the sidewalk and the fence.

At this point, the meeting was opened to the public for comment.

Ed Maciorowski – owns the Westampton carwash; he bought a noise level meter and measured the sound levels of his carwash, it is 85 decibels and can be heard across Route 541 and on Orchard Lane. Eventually the neighbors will complain; it will be noisy. On busy days they will have way more than 14 cars in line; he has had as many as 52 cars in line at this carwash. The owner of this new carwash will have to put people out there directing traffic; he won't be able to run it with 3 people, it will be a big mess. They need a loading space as well. He doesn't think the convenience store is a good idea; if the customers need drinks; just install a couple of soda machines. He doesn't make any money from the car accessories he offers for sale in his store. This new owner will have a problem with ice out front; the cars won't come out dry and this is the reason he has people outside to dry the cars as they exit the carwash.

There being no further comment from the public; the meeting was closed.

Dave Barger still has concerns about the convenience store use; he has issues with this use. Mr. Borger agrees; he doesn't think the applicant was very clear about what he is going to be selling. They are concerned it will build into a 7/11 type of use in time. They are concerned because the space is over 2000 square feet; why such a big space. The applicants stated that the space is only 1078 square feet; however, the Board was still concerned with the size; 49 feet by 22 feet in size. Bill Freeman is concerned with foot traffic at the site.

Supplies like soap will be stored in the mechanical room according to the applicants. Jim Winckowski had concerns regarding the freezing of water at the exit of the carwash especially since there would be no employees to dry the vehicles off. The applicant will have to manage this.

The Board decided that they would like to see the size of the convenience store

decreased; most customers won't be getting out of their cars anyway. They think 1078 square feet is too large and don't feel comfortable with it. It would make more sense if it was a carwash where people got out and waited for their cars to be done, but it isn't, it is totally automated.

After discussion, there will be only 600 square feet of space in which to sell drinks and snacks (to-go items limited to no more than 300 square feet); the other space would be taken up by an office, service counter, bathrooms and the sales of car related items; they need to provide an updated floor plan. Gene Blair thinks a turning space is necessary and a designated loading zone as well. The turn-around would be a striped dedicated parking space. The 18-foot curbed area next to the retail store could be a space as suggested by Gene; however, the applicant's engineer has a better idea. They can stripe a 12-foot-wide area near the vacuums for a loading area which will most likely take place during off peak hours anyway. Applicants agree to provide a striped area; they will remove one vacuum space and will be down to 15 vacs. They would work it out with the engineer. Jim Winckowski wants revised floor plans from the applicant before any resolution is voted upon. The solicitor advised the Board that it was perfectly permissible to let the engineer and the applicant work things out.

The planner thinks that the size of the letters on the two 15-foot-high monument signs is too small, in his opinion, four inches presents a hazard, people won't be able to read the sign. The applicants stated that they don't think it's a hazard; it may be an ineffective sign, if nothing else. The Board discussed the signage at length; the applicants are happy to revise the sign and make the lettering larger; perhaps 6 inches in size. They will submit a revised detail to the Board engineer and planner.

The applicants agree to comply with the fire marshal's report.

Mr. Blair made a motion to approve the application; the motion was seconded by Mr. Freeman. Mr. Barger, Mr. Blair, Mr. Borger, Mr. Freeman, Ms. Haas and Mr. Guerrero voted yes. Mr. Applegate abstained from voting since he hadn't attended last month's meeting when much testimony had been given.

New Business:

Inductotherm, Block 403, Lot 1 (10 Indel Avenue) – site plan waiver (public water service hook up and associated improvements; foundation for future picnic use. Dave Barger recused himself from the application since he had performed work for them before; Jim Suplee was present on behalf of the application and was sworn in by the Board solicitor. He is the facility and project manager for Inductotherm. They are seeking a site plan waiver for a water connection to NJ American Water; they currently service their business with two wells and want to connect to public water supply. They have their approval from DEP already. Three concrete foundations are to be installed, two are for the water project and the third is for a future picnic area. One is for the backflow preventer and the other is for the booster pump house which is needed for the fire suppression system to keep the pressure up. He believes the impact of the

concrete pads to be minimal taking into consideration the size of the property. No additional fire hydrants are to be installed. There are 11 fire hydrants on site currently. The whole lot is 900 acres. Gene Blair suggested that he submit plans to the Township fire marshal; the applicants agree to do so. The pavilion will just be for shade, there won't be any walls.

This was opened to the public for comment. No comment was made and the meeting was closed.

The applicants requested that the Board grant an at-risk permit since everything was in place and they were ready to go. The Board granted the at-risk permit.

Mr. Applegate made a motion to approve the application; the motion was seconded by Mr. Guerrero. Mr. Applegate, Mr. Blair, Mr. Borger, Mr. Freeman, Ms. Haas and Mr. Guerrero voted yes.

Shayona Donuts, LLC, Block 904, Lot 3.01 (Burl. -Mt. Holly Rd. & Western Drive)-amended preliminary & final major site plan (construction of a Dunkin Donuts).

David Chascowicz, attorney was present on behalf of the application. The property is 1.5 acres with two frontages, on Route 541 and Western Drive. The Board solicitor asked if the property owner had signed the application; only the applicant had signed. They agree to provide the signature of the property owner. A 832 square foot Dunkin Donuts store is proposed, with a drive through, 20 parking spaces are proposed, along with associated landscaping, etc. This is a next generation store for Dunkin Donuts; the closest one of its kind is located in Maryland. There is nothing like this in the area.

They think they can eliminate all but one waiver/variance after reviewing the planner's letter.

Mike Avila, engineer, Jeremy Danley, architect and Yogesh Patel were sworn in by the Board solicitor. The property is mostly paved and has two access points. Academy Bus is to the rear, the Valero gas station is on one side. The property had previously received an approval for a Dunkin Donuts store along with an associated strip mall. They are just constructing the Dunkin Donuts store in this application and have eliminated the strip mall. They have met with the County and have taken their comments into account in the plans presented to the Board. There is an access easement which will be provided on revised plans.

There is a dedicated drive though lane and right next to it another lane, termed a "mobile lane". There are two pick up windows at this store. There is also an 18-foot-wide bypass lane. There is quite a bit of room on the site for maneuvering.

The storm water management system is located along Route 541 and along the common property line with the Valero gas station. They will be tapping into this existing system. There is no current landscaping but they will be providing some. A 10 foot by 24-foot trash enclosure will be provided on the northeasterly side of the site. There is a

loading/unloading area 12 feet by 60 feet in size in the bypass lane. There will be sufficient maneuverability even while unloading. Deliveries will take place during the early morning hours and occurs once a week.

The planner asked for additional landscaping, the applicants agree to do this. The ordinance requires a 20-foot landscape buffer; they will enhance the landscaping but can't meet ordinance requirements by the parking stalls and the property line on Western Drive. They can meet it at all other areas. Proposed signs need to be set 20 feet from the property lines; they can meet this as well. They can provide 200 square feet of landscaping and also provide 10 foot by 20-foot parking spaces which eliminate that variance. They have adjusted the drive to eliminate another variance that had been requested. They will comply with the directional signs and won't need a variance for that as well. The free-standing sign also meets the ordinance requirements; they will remove the free-standing sign on Western Drive and replace it with a directional sign instead. They will eliminate the berm. Three façade signs are being requested; this is a corner lot and only 1 is permitted by ordinance. They believe the signs provide a desirable visual environment and are necessary. They are asking for the Board to grant the variance for these façade signs.

They received the fire marshals review letter and will make the necessary changes to address his comments.

Hours are 5 AM to 9 PM seven days a week; maximum employees are 5, in the morning. Everything is baked off site and is delivered in a box truck. Trash is picked up twice a week, recycling is collected once a week.

The applicant's architect testified on behalf of the application. Most stores are stucco; this is more of a masonry look, a panelized system to look like brick. Seating is reduced from that of conventional stores. HVAC will be located on the roof. Jim Winckowski needs the Board's direction on the berming and landscaping along Route 541. The Board is comfortable granting relief and allowing the applicant to work out details with the engineer.

The meeting was opened to the public for comment; no comment was made and the meeting was closed.

Mr. Barger made a motion to approve the application; the motion was seconded by Mr. Blair. Mr. Applegate, Mr. Barger, Mr. Blair, Mr. Borger, Mr. Freeman, Ms. Haas and Mr. Guerrero all voted yes.

Open Meeting for public comment

No comments were made.

DRAFT

There being no further business, the meeting was adjourned.

Respectfully submitted,

Marion Karp, Secretary
Westampton Township Land Development Board

RESOLUTION: 17-2018

WESTAMPTON TOWNSHIP LAND DEVELOPMENT BOARD

APPLICANT'S NAME: APCO Petroleum Corporation

BOARD'S DECISION: Granting One Year Extension of Preliminary and Final Site Plan Approval with Conditional Use Variance, Bulk Variance, and Waivers

PROPERTY ADDRESS: 2036 Burlington-Mount Holly Rd – Block 904, Lot 2

ZONING DISTRICT: Commercial – “C”

DATE OF HEARING: July 11, 2018

WHEREAS, APCO Petroleum Corporation (“the Applicant”) was previously granted Preliminary and Final Major Site Plan Approval with Conditional Use Variance, Bulk Variance, and Waiver Relief (“Approval”) to permit the demolition of an existing motor vehicle service station and convenience store and to construct a new, larger motor vehicle service station and convenience store at 2036 Burlington-Mount Holly Road, Westampton, New Jersey, and designated as Block 904, Lot 2 on the Township Tax Map (“Subject Property”) by the Westampton Land Development Board (“Board”); and

WHEREAS, the Applicant’s Approval was granted on April 4, 2012; and

WHEREAS, the Municipal Land Use Law (“MLUL”), *N.J.S.A. 40:55D-52(a)*, allows for extensions of approval and protection, and provides: “[i]f the developer has followed the standards prescribed for final approval, . . ., the planning board may extend such period of protection for extensions of one year but not to exceed three extensions”; and

WHEREAS, the Applicant was previously granted a one (1) year extension of approval and protection from June 30, 2016 to June 30, 2017 at the regularly scheduled public meeting held on September 7, 2016; and the resolution memorializing said extension of approval was adopted on November 2, 2016 as Resolution #14-2016; and

WHEREAS, the Applicant was previously granted a one (1) year extension of approval and protection from June 30, 2017 to June 30, 2018 at the regularly scheduled public meeting held on August 2, 2017; and the resolution memorializing said extension of approval was adopted on September 6, 2017 as Resolution #14-2017; and

WHEREAS, the Applicant now seeks a third and final one-year extension of approval and protection to June 30, 2019 pursuant to *N.J.S.A. 40:55D-52(a)* (the “Application”); and

WHEREAS, the Application was presented by the Applicant's attorney, Kevin J. Moore, Esq.; and

WHEREAS, the Board discussed the Application and the Board Professionals offered recommendations. The Application was opened to the public for comment, and any members of the public wishing to comment on the Application were given the opportunity to do so; and

WHEREAS, based on all the evidence submitted, the Board renders the following factual findings and conclusions of law in addition to any contained in the preceding paragraphs:

1. The Subject Property is located at 2036 Burlington-Mount Holly Road, Westampton, New Jersey. The Subject Property is designated as Block 904, Lot 2, and lies in the "C" – Commercial District.
2. The Applicant is seeking a one (1) year extension of approval and protection to June 30, 2019 of Preliminary and Final Major Site Plan Approval with Conditional Use Variance, Bulk Variance, and Waiver Relief to permit the demolition of an existing motor vehicle service station and convenience store and to construct a new, larger motor vehicle service station and convenience store at the Subject Property.
3. The Applicant has worked diligently to satisfy all of the conditions of the Approval; however, due to economic conditions and the scope of conditions attached to the Approval, the Applicant has yet to satisfy all the conditions.
4. After presentation by the Applicant's professionals, the matter was opened to the public for comment. No member of the public appeared to testify.
5. The Board finds and concludes that the Applicant has followed the standards prescribed for final approval and is entitled to a final one-year extension of approval and protection pursuant to *N.J.S.A. 40:55D-52(a)*.

NOW, THEREFORE, BE IT RESOLVED, by the Land Development Board of the Township of Westampton, that the within Application requesting a one-year extension to June 30, 2019 of Preliminary and Final Major Site Plan Approval with Conditional Use Variance, Bulk Variance, and Waiver Relief to permit the demolition of an existing motor vehicle service station and convenience store and to construct a new, larger motor vehicle service station and convenience store at the Subject Property upon motion duly made by Mr. Applegate and seconded by Ms. Haas, was and is hereby **GRANTED**, subject to the testimony and representation set forth on the record by the Applicant, and any conditions set forth herein.

ROLL CALL VOTE

	<u>Ayes</u>	<u>Nayes</u>	<u>Abstentions</u>	<u>Recusal</u>
Applegate	x			
Barger	x			
Blair	x			
Borger	x			

Freeman	x
Guerrero	x
Haas	x
Myers	x

IT IS FURTHER RESOLVED, the above relief is subject to the following standard conditions:

1. That the Application, all exhibits, testimony, map, and other documents submitted and relied on by the Applicant, are true and accurate representations of the facts relating to the Applicant's request for approval. In the event that it is determined by the Board, on non-arbitrary, non-capricious and reasonable grounds, that the Application, exhibits, testimony, maps, and other documents submitted are not accurate, are materially misleading, or are the result of mistake, and the same had been relied upon by the Board as they bear on facts which were essential in the granting of the relief sought by the Applicant, the Board may review its approval and rehear the Application, if circumstances so require, or where a rehearing is necessary and appropriate in the interests of justice;
2. Upon discovery by the Board of clear and convincing evidence of a materially misleading submission, material misstatement, materially inaccurate information, or a material mistake made by the Applicant, the Board reserves the right to conduct a hearing with the Applicant present, for the purpose of fact-finding regarding the same. Should the facts at said hearing confirm that there had been a material fault in the Application, the Board shall take whatever action it deems appropriate at that time, consistent with the MLUL and case law, including but not limited to a reconsideration of its prior approval, a rehearing, a modification of its prior approval, or such other action as appropriate. In addition, at any time within 45 days after the adoption of this resolution, a party of interest may appeal to the Superior Court for an order vacating or modifying any term or condition as set forth herein;
3. The Applicant shall indemnify and hold the Township harmless from any Claims whatsoever which may be made as a result of any deficiency in the Application, or as to any representations made by the Applicant, including but not limited to proper service and notice upon interested parties made in reliance upon the certified list of property owners and other parties entitled to notice, said list having been provided to the Applicant by the Township pursuant to *N.J.S.A. 40:55D-12(c)*, and publication of the notice of public hearing in this matter in accordance with the law;
4. The relief as granted herein is subject to the discovery of any and all deed restrictions upon the Subject Property which had not been known or had not been disclosed to the Board, but which would have had a materially negative impact upon the Board's decision in this matter had they been so known, or so disclosed;
5. The Applicant must obtain approvals from any and all other governmental and/or public agencies as required, whether federal, state, county or local, over which the Board has no control but which are necessary in order to finalize and/or implement the relief being

granted herein, as well as any construction that may be a part of said relief. The Applicant is solely responsible for determining which governmental and/or public agencies, if any, such approvals are required;

6. The Applicant is further required to submit a copy to the Board's Secretary of all approvals and/or denials received from such outside agencies, with a copy thereof to the Board's Solicitor, Engineer and Planner;
7. The Applicant must pay the costs of all professional review and other fees required to act on the Application, pursuant to the applicable sections of the Township's land development ordinances, zone codes and any other applicable municipal codes, and the N.J. Municipal Land Use Law;
8. The Applicant assumes all risks should the Applicant fail to obtain any other construction or other municipal permits required with respect to the relief as granted herein during the statutory appeal period associated with the language of this resolution;
9. The Applicant must obtain any other construction or other municipal permits required with respect to the relief as granted herein;
10. The Applicant shall comply with all of the representations and stipulations as contained in the application and as represented through testimony in support of the application.

WESTAMPTON LAND DEVELOPMENT BOARD

BY:

Gary Borger, Chairman

ATTEST:

Marion Karp

Marion Karp, RMC, CMR, Board Secretary

DATE MEMORIALIZED: _____

10/3/18

RESOLUTION: 18-2018

WESTAMPTON TOWNSHIP LAND DEVELOPMENT BOARD

APPLICANT'S NAME: Jim Suplee (Inductotherm)
BOARD'S DECISION: Granted Application for Site Plan Waiver
PROPERTY ADDRESS: 10 Indel Avenue – Block 403, Lot 1
ZONING DISTRICT: Industrial "I" Zoning District
DATE OF HEARING: July 11, 2018

WHEREAS, Jim Suplee (Inductotherm) ("Applicant") filed an application with the Westampton Land Development Board ("Board") requesting a site plan waiver to permit the installation of several site improvements at 10 Indel Avenue, Westampton, New Jersey, designated as Block 403, Lot 1 on the Township Tax Map ("Subject Property") and located in the Industrial "I" Zoning District; and

WHEREAS, the Board had jurisdiction to hear this matter (the "Application") under the New Jersey Municipal Land Use Law ("MLUL"), *N.J.S.A. 40:55D-1 et seq.*; and

WHEREAS, the Application came before the Board at the regularly-scheduled public meeting held on July 11, 2018; Jim Suplee, Facilities Project Manager for Inductotherm, was sworn in to provide testimony as to the purpose and details of the proposed improvements requested by way of site plan waiver; and

WHEREAS, the Board discussed the Application and the Board Professionals offered recommendations; the Application was opened to the public for comment, and any members of the public wishing to comment on the Application were given the opportunity to do so; and

WHEREAS, based on all the evidence submitted to the Board and testimony presented at the July 11, 2018 public hearing, the Board renders the following factual findings and conclusions of law in addition to any contained in the preceding paragraphs:

1. The Applicant is Jim Suplee (Inductotherm) and the Subject Property is 10 Indel Avenue – Block 403, Lot 1, located within the Industrial "I" Zoning District.
2. The Applicant proposes several minor site improvements at the Subject Property. Pursuant to Chapter 196, Section 196-2 of the Township Zoning Ordinance ("Township Code"), any change of use requires site plan review or the grant of a site plan waiver. A site plan waiver may be granted when the site plan involves the following and is not within the Township's flood hazard area: (1) an existing building; (2) no new construction; (3) no extension of the on-tract

parking improvements required; (4) no change in the existing drainage; or (5) construction of a building for agricultural purposes. Township Code § 196-2B.

3. Jim Suplee was sworn in and testified as to the requested relief. Mr. Suplee testified that the Subject Property is 900 acres; that the proposed changes include: (1) connecting the existing private domestic water system to the New Jersey American Water municipal water system; (2) installing an above-ground Hot-Box on a concrete foundation (approx. 9' x 21') containing NJAW Meter and Backflow assembly; (3) installing one pre-assembled Booster Pump House set on a 9' x 13' concrete foundation; and (4) installing one concrete foundation (approx. 30' x 30') for a future Picnic Area Pavilion.

4. Mr. Suplee further testified that the proposed improvements and site plan waiver is requested in order to: (1) provide the companies connected to the existing wells with more reliable and better domestic water; (2) provide a covered area for employees to take breaks and lunch; and (3) that there will be no impact on surrounding properties, buildings, or activities.

5. After testimony presented by the Applicant, the matter was opened to the public for comment. No members of the public appeared to testify.

6. The Board finds and concludes pursuant to Township Code § 196-2B that site plan review is not required and the Applicant is therefore entitled to the requested site plan waiver because the proposed improvements are minor in nature and will not impact the Subject Property or any surrounding properties or activities, the Applicant has not proposed any exterior physical changes to the existing building at the Subject Property, does not propose any new construction, proposes to continue a permitted use in the "I" Zone, and has presented sufficient evidence and information allowing the Board to determine the Application as proposed meets the applicable Township Code requirements.

NOW, THEREFORE, BE IT RESOLVED, by the Land Development Board of the Township of Westampton, that the within Application for a site plan waiver to permit the installation of several site improvements at the Subject Property in the Industrial "I" Zone, upon motion duly made by Mr. Applegate and seconded by Mr. Guerrero, was and is hereby **GRANTED**, subject to the testimony and representations set forth on the record by the Applicant, and any conditions set forth on the record and those specified herein.

ROLL CALL VOTE

	<u>Ayes</u>	<u>Nays</u>	<u>Abstentions</u>	<u>Recusal</u>
Applegate	x			
Barger				x
Blair	x			
Borger	x			
Freeman	x			
Guerrero	x			
Haas	x			

IT IS FURTHER RESOLVED, the Applicant is entitled to proceed **AT RISK**.

IT IS FURTHER RESOLVED, the above relief is subject to the following standard conditions:

1. That the Application, all exhibits, testimony, map, and other documents submitted and relied on by the Applicant, are true and accurate representations of the facts relating to the Applicant's request for approval. In the event that it is determined by the Board, on non-arbitrary, non-capricious and reasonable grounds, that the Application, exhibits, testimony, maps, and other documents submitted are not accurate, are materially misleading, or are the result of mistake, and the same had been relied upon by the Board as they bear on facts which were essential in the granting of the relief sought by the Applicant, the Board may review its approval and rehear the Application, if circumstances so require, or where a rehearing is necessary and appropriate in the interests of justice;
2. Upon discovery by the Board of clear and convincing evidence of a materially misleading submission, material misstatement, materially inaccurate information, or a material mistake made by the Applicant, the Board reserves the right to conduct a hearing with the Applicant present, for the purpose of fact-finding regarding the same. Should the facts at said hearing confirm that there had been a material fault in the Application, the Board shall take whatever action it deems appropriate at that time, consistent with the MLUL and case law, including but not limited to a reconsideration of its prior approval, a rehearing, a modification of its prior approval, or such other action as appropriate. In addition, at any time within 45 days after the adoption of this resolution, a party of interest may appeal to the Superior Court for an order vacating or modifying any term or condition as set forth herein;
3. The Applicant shall indemnify and hold the Township harmless from any Claims whatsoever which may be made as a result of any deficiency in the Application, or as to any representations made by the Applicant, including but not limited to proper service and notice upon interested parties made in reliance upon the certified list of property owners and other parties entitled to notice, said list having been provided to the Applicant by the Township pursuant to *N.J.S.A. 40:55D-12(c)*, and publication of the notice of public hearing in this matter in accordance with the law;
4. The relief as granted herein is subject to the discovery of any and all deed restrictions upon the Subject Property which had not been known or had not been disclosed to the Board, but which would have had a materially negative impact upon the Board's decision in this matter had they been so known, or so disclosed;
5. The Applicant must obtain approvals from any and all other governmental and/or public agencies as required, whether federal, state, county or local, over which the Board has no control but which are necessary in order to finalize and/or implement the relief being granted herein, as well as any construction that may be a part of said relief. The Applicant

is solely responsible for determining which governmental and/or public agencies, if any, such approvals are required;

6. The Applicant is further required to submit a copy to the Board's Secretary of all approvals and/or denials received from such outside agencies, with a copy thereof to the Board's Solicitor, Engineer and Planner;
7. The Applicant must pay the costs of all professional review and other fees required to act on the Application, pursuant to the applicable sections of the Township's land development ordinances, zone codes and any other applicable municipal codes, and the N.J. Municipal Land Use Law;
8. The Applicant assumes all risks should the Applicant fail to obtain any other construction or other municipal permits required with respect to the relief as granted herein during the statutory appeal period associated with the language of this resolution;
9. The Applicant must obtain any other construction or other municipal permits required with respect to the relief as granted herein;
10. The Applicant shall comply with all of the representations and stipulations as contained in the application and as represented through testimony in support of the application.

WESTAMPTON LAND DEVELOPMENT BOARD

BY:

Gary Borger, Chairman

ATTEST:

Marion Karp

Marion Karp, RMC, CMR, Board Secretary

DATE MEMORIALIZED: _____

10/3/18

RESOLUTION: 19-2018

WESTAMPTON TOWNSHIP LAND DEVELOPMENT BOARD

APPLICANT'S NAME: Shree Shayona Donuts, LLC c/o Yogesh Patel

BOARD'S DECISION: Granted Amended Preliminary/Final Major Site Plan Approval with Bulk Variances

PROPERTY ADDRESS: Burlington-Mt. Holly Road (County Route 541) and Western Drive – Block 904, Lot 3.01

ZONING DISTRICT: Commercial “C” Zoning District

DATE OF HEARING: July 11, 2018

WHEREAS, Shree Shayona Donuts, LLC c/o Yogesh Patel (“Applicant”) filed an application with the Westampton Land Development Board (“Board”) requesting amended preliminary/final major site plan approval with bulk variance relief to permit the construction of a Dunkin Donuts on a 1.49 acre property located in the Township’s Commercial “C” Zone. The property is located at Burlington-Mt. Holly Road (County Route 541) and Western Drive, Westampton, New Jersey, designated as Block 904, Lot 3.01 on the Township Tax Map (“Subject Property”); and

WHEREAS, the Board had jurisdiction to hear this matter (the “Application”) under the New Jersey Municipal Land Use Law (“MLUL”), *N.J.S.A. 40:55D-1 et seq.*; and

WHEREAS, the Application came before the Board at the regularly-scheduled public meeting held on July 11, 2018. The Applicant was represented by David Shafkowitz, Esq. The Board heard testimony from the Applicant’s witnesses and professionals as to the purpose and details of the requested preliminary and final major site plan; and requested bulk variance and waiver relief; and

WHEREAS, the Board discussed the Application and the Board Professionals offered recommendations. The Application was opened to the public for comment, and any members of the public wishing to comment on the Application were given the opportunity to do so; and

WHEREAS, based on all the evidence submitted to the Board and testimony presented at the July 11, 2018 public hearing, the Board renders the following factual findings and conclusions of law in addition to any contained in the preceding paragraphs:

1. The Applicant, Shree Shayona Donuts, LLC c/o Yogesh Patel, seeks amended preliminary and final major site plan approval with bulk variance relief to permit the construction of a Dunkin Donuts restaurant with a drive-through at the Subject Property - Block 904, Lot 3.01,

located within the Commercial "C" Zone at the intersection of Burlington-Mt. Holly Road and Western Drive.

2. The Subject Property totals approximately 1.49 acres and was previously granted approval for a retail strip center, but that approval was never perfected. The Subject Property is currently paved but is otherwise vacant. The Applicant proposes to develop the Subject Property and construct a single use Dunkin Donuts restaurant with a drive-through, customer parking, lighting, landscaping, and concrete sidewalk along the frontage of the Subject Property, requiring the grant of major site plan approval in accordance with Chapter 196 "Site Plan Review" of the Township Code.

3. The Application also requires the grant of *N.J.S.A.* 40:55D-70c bulk variances in connection with the preliminary/final major site plan approval to permit several deviations from the bulk requirements of the C-Zone set forth in the Township Code.

4. The following witnesses and professionals appeared and testified in favor of the Application during the July 11, 2018 hearing: Yogesh Patel, the Applicant; Michael E. Avila, PE, PP, the Applicant's Engineer and Planner; and Jeremy Danley, AIA, the Applicant's Architect.

5. The Applicant submitted the following exhibits during the July 11, 2018 hearing: A1 – Aerial of Site; A2 – 3/22/18 Plan submitted with Application Sheet 3; A3 – Updated Plan to Respond to Professionals' Letters/Comments on Variances and Waivers; A4 – Architectural Rendering with 2 Photos; A5 – Architectural Elevations 3.1; A6 – Architectural Floor Plans 1.0; A7 – Color Elevation; A8 – Color Elevation; and A9 – Signage Plan.

6. Mr. Shafkowitz presented and introduced the Application to the Board, detailing the history of the Applicant's prior approvals and explaining that the proposed Dunkin Donuts is 832 sf with 20 parking spaces proposed. Mr. Shafkowitz further represented the proposed Dunkin Donuts is a "next generation" store unlike any other in the area, and that the closest one of its kind is located in Maryland. Mr. Shafkowitz further explained the Applicant has met with the County and taken the County's comments into consideration in the plans prepared and presented to the Board. Upon query from the Board Solicitor, Mr. Shafkowitz agreed as a condition of approval to submit the Applicant's lease and access easement to the Board Solicitor for review and approval.

7. The Applicant testified that the Dunkin Donuts hours of operation will be 5 AM to 9 PM, seven days a week; that the maximum number of employees at any one time will be 5 employees in the morning; that everything is baked off-site and delivered in a box truck; that trash will be picked up twice a week and recycling collected once a week.

8. The Applicant's Engineer, Michael Avila, testified as to the proposed improvements and details of the site plan. Mr. Avila explained the Subject Property is mostly paved and has two access points, with Academy Bus to the rear and a Valero gas station to one side of the Subject Property. Mr. Avila further identified and explained the purpose of the dedicated drive-through lane, mobile lane, pick-up windows, and bypass lane, all of which will allow for sufficient maneuverability at the Subject Property. Mr. Avila further testified as to the storm water

management system, which is located along Route 541 and the common property line with the Valera landscaping. Mr. Avila explained the Applicant will be providing landscaping, a 10' x 24' trash enclosure, and a 12' x 60' unloading area.

9. The Applicant's professionals clarified the variances required and other relief requested in connection with the amended preliminary and final major site plan. The Applicant's witnesses explained they will provide additional landscaping, but cannot meet the landscaping buffer requirement by the parking stalls and along the property line on Western Drive. The Applicant's proposed signs will be set 20 ft from the property lines as required by ordinance, along with 200 sf of landscaping and 10' x 18' parking spaces. The Applicant will not require a variance for directional signs or free standing signs, but will require a variance for 3 façade signs whereas only 1 is permitted ordinance. The Applicant's professionals testified that the additional façade signs are necessary for the Subject Property, will promote a desirable visual aesthetic, and present no detriment to the public good or impairment of the Township's Zoning Ordinance. The Applicant agreed to address the comments of the Township fire marshal.

10. The Applicant's Architect, Jeremy Danley, testified as to the visual appearance and aesthetic of the proposed Dunkin Donuts, explaining that the building will have more of a masonry look and a panelized system to look like brick. Mr. Danley further testified that the restaurant will have reduced seating, that the HVAC system will be located on the roof, and that the Applicant will work with the Board professionals to finalize landscaping details through post-resolution compliance.

11. The Board Engineer, Jim Winckowski, PE, CME, presented and discussed his May 25, 2018 Review Letter, incorporated by reference herein. The Applicant agreed, as a condition of approval, to comply with all the recommendations and conditions set forth in the Board Engineer's Review Letters.

12. The Board Planner, Barbara J. Fegley, AA, AICP, presented and discussed her June 26, 2018 Review Letter, incorporated by reference herein. The Applicant agreed, as a condition of approval, to comply with all the recommendations and conditions set forth in the Board Planner's Review Letter.

13. After testimony presented by the Applicant's witnesses and professionals, the matter was opened to the public for comment, and no members of the public appeared to testify.

14. With regard to the request for bulk variance relief, through the evidence submitted and testimony presented by the Applicant, the Board finds that the Applicant has established that due to the exceptional status of the Subject Property as a corner lot and the existing topographical conditions thereon, the strict application of the façade sign limitation and landscape buffering requirements set forth in Chapter 250, Section 250-25K(1)(a) and Chapter 196, Section 196-8B(3)(c)[1] of the Township Code, would result in peculiar and exceptional practical difficulties to, and exceptional and undue hardship upon, the Applicant, thus bulk variance relief permitting 3 façade signs and the proposed landscape buffer relative to the parking stalls and Western Drive is warranted so as to relieve such difficulties and hardship. *N.J.S.A. 40:55D-70c(1)*.

13. Through the evidence submitted and testimony presented by the Applicant, the Board further finds that the Applicant has sustained the burden of proof to support the above variances in accordance with the statutory requirements set forth in the MLUL, *N.J.S.A.* 40:55D-70c(2); that is, the requested deviations from the Township Code requirements serve several purposes of the MLUL, specifically: promotion of the general welfare of the community by encouraging development and increasing the property value of the Subject Property; *N.J.S.A.* 40:55D-2a; providing adequate open space at the Subject Property; *N.J.S.A.* 40:55D-2c; and by improving the visual appearance and aesthetics of the Subject Property by including the 3 façade signs and proposed landscaping. *N.J.S.A.* 40:55D-2i.

14. Through the evidence submitted and testimony presented by the Applicant, the Board finds that the benefits of the requested variances substantially outweigh any detriment, that the variances can be granted without substantial detriment to the public good, and will not substantially impair the intent and the purpose of the zone plan and zoning ordinance due to the large size of the Subject Property. *N.J.S.A.* 40:55D-70.

15. The Board further finds that the requested variance relief:

a. relates to a specific piece of property, namely the Subject Property;

b. that the purposes of the MLUL would be advanced by a deviation from the Township Zoning Ordinance requirements;

c. that the variance can be granted without substantial detriment to the public good; and

d. that the benefits of the deviation substantially outweigh any detriment and that the variances will not substantially impair the intent and purpose of the zone plan and ordinance.

16. With regard to the requested amended preliminary/final major site plan approval, through the evidence submitted and testimony presented by the Applicant's witnesses, professionals, the Board's professionals, and members of the public, the Board finds and concludes that the proposed major site plan complies with all site plan and other standards, specifications, and requirements established by the Township's Zoning Ordinance not addressed by variances and waivers as detailed herein, and that the Subject Property is suitable for the proposed development given the size of the Subject Property and permitted commercial uses in the C Zone. *See, e.g., Levin v. Livingston Twp.*, 35 *N.J.* 500, 510-11 (1961); *Pizzo Mantin Group v. Randolph Twp.*, 261 *N.J. Super.* 659 (App. Div. 1993), *aff'd. as modified*, 137 *N.J.* 216 (1994).

NOW, THEREFORE, BE IT RESOLVED, by the Land Development Board of the Township of Westampton that the within Application seeking amended preliminary/final major site plan approval with bulk variance relief to permit the proposed construction of a Dunkin Donuts and associated site improvements at the Subject Property in the Commercial "C" Zone, upon motion duly made by Mr. Barger and seconded by Mr. Blair, was and is hereby **GRANTED**, subject to the testimony and representations set forth on the record by the Applicant, and any conditions set forth on the record and those specified herein.

ROLL CALL VOTE

	<u>Ayes</u>	<u>Nayes</u>	<u>Abstentions</u>	<u>Recusal</u>
Applegate	x			
Barger				x
Blair	x			
Borger	x			
Freeman	x			
Guerrero	x			
Haas	x			

IT IS FURTHER RESOLVED, the above relief is subject to the following conditions:

1. The Applicant shall comply with all terms, conditions, and recommendations set forth in the Board Engineer's Review Letter.
2. The Applicant shall comply with all terms, conditions, and recommendations set forth in the Board Planner's Review Letter.
3. The Applicant shall comply with all terms, conditions, and recommendations set forth in the Fire Marshal's Report.
4. The Applicant shall provide a copy of the Applicant's lease with the owner of the Subject Property to the Board Solicitor for review and approval.
5. The Applicant shall provide a copy of the Applicant's site access easement to the Board Solicitor for review and approval.

IT IS FURTHER RESOLVED, the above relief is subject to the following standard conditions:

1. That the Application, all exhibits, testimony, map, and other documents submitted and relied on by the Applicant, are true and accurate representations of the facts relating to the Applicant's request for approval. In the event that it is determined by the Board, on non-arbitrary, non-capricious and reasonable grounds, that the Application, exhibits, testimony, maps, and other documents submitted are not accurate, are materially

misleading, or are the result of mistake, and the same had been relied upon by the Board as they bear on facts which were essential in the granting of the relief sought by the Applicant, the Board may review its approval and rehear the Application, if circumstances so require, or where a rehearing is necessary and appropriate in the interests of justice;

2. Upon discovery by the Board of clear and convincing evidence of a materially misleading submission, material misstatement, materially inaccurate information, or a material mistake made by the Applicant, the Board reserves the right to conduct a hearing with the Applicant present, for the purpose of fact-finding regarding the same. Should the facts at said hearing confirm that there had been a material fault in the Application, the Board shall take whatever action it deems appropriate at that time, consistent with the MLUL and case law, including but not limited to a reconsideration of its prior approval, a rehearing, a modification of its prior approval, or such other action as appropriate. In addition, at any time within 45 days after the adoption of this resolution, a party of interest may appeal to the Superior Court for an order vacating or modifying any term or condition as set forth herein;
3. The Applicant shall indemnify and hold the Township harmless from any Claims whatsoever which may be made as a result of any deficiency in the Application, or as to any representations made by the Applicant, including but not limited to proper service and notice upon interested parties made in reliance upon the certified list of property owners and other parties entitled to notice, said list having been provided to the Applicant by the Township pursuant to *N.J.S.A. 40:55D-12(c)*, and publication of the notice of public hearing in this matter in accordance with the law;
4. The relief as granted herein is subject to the discovery of any and all deed restrictions upon the Subject Property which had not been known or had not been disclosed to the Board, but which would have had a materially negative impact upon the Board's decision in this matter had they been so known, or so disclosed;
5. The Applicant must obtain approvals from any and all other governmental and/or public agencies as required, whether federal, state, county or local, over which the Board has no control but which are necessary in order to finalize and/or implement the relief being granted herein, as well as any construction that may be a part of said relief. The Applicant is solely responsible for determining which governmental and/or public agencies, if any, such approvals are required;
6. The Applicant is further required to submit a copy to the Board's Secretary of all approvals and/or denials received from such outside agencies, with a copy thereof to the Board's Solicitor, Engineer and Planner;
7. The Applicant must pay the costs of all professional review and other fees required to act on the Application, pursuant to the applicable sections of the Township's land development ordinances, zone codes and any other applicable municipal codes, and the N.J. Municipal Land Use Law;

8. The Applicant assumes all risks should the Applicant fail to obtain any other construction or other municipal permits required with respect to the relief as granted herein during the statutory appeal period associated with the language of this resolution;
9. The Applicant must obtain any other construction or other municipal permits required with respect to the relief as granted herein;
10. The Applicant shall comply with all of the representations and stipulations as contained in the application and as represented through testimony in support of the application.

WESTAMPTON LAND DEVELOPMENT BOARD

BY:

Gary Borger, Chairman

ATTEST:

Marion Karp
Marion Karp, RMC, CMR, Board Secretary

DATE MEMORIALIZED:

10-3-18

RESOLUTION: 20-2018

WESTAMPTON TOWNSHIP LAND DEVELOPMENT BOARD

APPLICANT'S NAME: SBC Laundromat, Inc.

BOARD'S DECISION: Granted Application for Preliminary & Final Major Site Plan Approval with Bulk Variances & Waivers

PROPERTY ADDRESS: 483 Woodlane Rd – Block 301, Lot 2

ZONING DISTRICT: Commercial “C” Zoning District

DATE OF HEARING: June 6, 2018; July 11, 2018

WHEREAS, SBC Laundromat, Inc. (“Applicant”) filed an application with the Westampton Land Development Board (“Board”) requesting preliminary and final major site plan approval for the construction of an 11,780 sf retail building and 4,671 sf car wash facility in the Commercial “C” Zone. The property is located at 483 Woodlane Road, Westampton, New Jersey, designated as Block 301, Lot 2 on the Township Tax Map (“Subject Property”); and

WHEREAS, the Board had jurisdiction to hear this matter (the “Application”) under the New Jersey Municipal Land Use Law (“MLUL”), *N.J.S.A. 40:55D-1 et seq.*; and

WHEREAS, the Application was previously carried from the April 4, 2018 Board meeting to the May 2, 2018 Board meeting, and from the May 2, 2018 Board meeting to the June 6, 2018 Board meeting; and

WHEREAS, at the June 6, 2018 Board meeting, the Applicant was represented by Patrick F. McAndrew, Esq. The Board heard testimony from the Applicant’s witnesses and professionals as to the purpose, location, and details of the proposed major site plan and requested variance relief; and

WHEREAS, at the June 6, 2018 Board meeting, the Board discussed the Application and the Board Professionals offered recommendations. The Application was opened to the public for comment, and any members of the public wishing to comment on the Application were given the opportunity to do so; and

WHEREAS, prior to the Board rendering a decision to grant or deny the Application, the Applicant requested the Application be tabled and the hearing continued until the next regularly-scheduled Board meeting so the Applicant can address comments and concerns raised by the Board, Board Professionals, and members of the public during the June 6, 2018 Board meeting; and

WHEREAS, the Applicant again appeared before the Board at the July 11, 2018 Board meeting, where the Applicant was again represented by Patrick F. McAndrew, Esq. The Board heard further testimony from the Applicant's witnesses and professionals as to the purpose, location, and details of the proposed major site plan and requested variance relief; and

WHEREAS, at the July 11, 2018 Board meeting, the Board again discussed the Application and the Board Professionals offered recommendations. The Application was opened to the public for comment, and any members of the public wishing to comment on the Application were given the opportunity to do so; and

WHEREAS, based on all the evidence submitted to the Board and testimony presented at the June 6, 2018 and July 11, 2018 public hearings, the Board renders the following factual findings and conclusions of law in addition to any contained in the preceding paragraphs:

1. The Applicant, SBC Laundromat, Inc., seeks preliminary and final major site plan approval with bulk variance relief to permit the construction of an 11,780 sf retail building and 4,671 sf car wash facility in the Commercial "C" Zone. The Subject Property is 483 Woodlane Road, Westampton, New Jersey, designated as Block 301, Lots 2 on the Township Tax Map.
2. The Subject Property is 8.39 acres and presently used as a shopping center. The Applicant proposes to develop the Subject Property further to construct an 11,780 sf retail building and 4,671 sf car wash facility, along with associated site improvements and amenities, requiring the grant of site plan approval in accordance with Chapter 196 "Site Plan Review" of the Township Code.
3. The Application also requires the grant of *N.J.S.A. 40:55D-70c* bulk variances in connection with the preliminary/final major site plan approval to permit several deviations from the bulk requirements of the C-Zone set forth in the Township Code.
4. The following witnesses and professionals appeared and testified in favor of the Application during the June 6, 2018 and July 11, 2018 hearings: Jay Chun, San Wook Kim, the Applicant's Architect, Brian Cleary, the Applicant's Engineer, Nathan Mosley, the Applicant's Traffic Engineer, Frank Lash, the Applicant's Car Wash Consultant, and Sharon Renfor and Bob Renfor, the Applicant's Sign Experts.
5. The Applicant submitted the following exhibits during the June 6, 2018 and July 11, 2018 hearings: A1 – Car Wash; A2 – Retail Building; A3 – Brick Detail; and A4 – Retail Signage.
6. Mr. McAndrew presented and introduced the Application to the Board, reminding the Board as to the details of the Application and the Applicant's prior presentation from the June 6, 2018 Board Meeting, whereat the Applicant's various professionals, including Mr. Cleary and Mr. and Ms. Renfor, testified in support of the Application. Mr. McAndrew represented the purpose of the Application is to add a new building to the site for up to 8 potential tenants,

as well as a mostly automated car wash. Mr. McAndrew further explained that since the Applicant's prior hearing, the plans had been revised to address many of the Board's concerns.

7. The Board began the July 11, 2018 hearing by questioning the Applicant's professionals regarding changes to the Application from the prior hearing, and the Applicant's professionals explained the changes included a different color brick for the proposed retail building, which will now be reddish in color instead of black, along with more detailed information and examples of the proposed signage and consistent, uniform lettering to be used for the signage.

8. Mr. Cleary, the Applicant's Engineer, testified regarding the site plan changes, explaining the Applicant removed the vacuum canopies and are proposing to reduce the size of the menu boards at the Subject Property from 32 feet to 24 feet in size. The Applicant was still requesting 2 menu boards, which will require a variance. Mr. Cleary further testified that the average lighting level at the Subject Property will be 1.2-1.5 foot candles, which will also require a variance because the Township Code permits a maximum of .5 foot candles. Mr. Cleary testified the Applicant would revise the on-site directional signs to meet Township Code requirements, and that the existing monument sign is 15 feet whereas only 8 feet is permitted by Township Code, therefore it is a pre-existing non-conformity. Mr. Cleary also testified the Applicant is not proposing a loading space, but will add a striped 12 foot wide area for turning and will include 15 paid vacuums instead of the proposed 16 vacuums as a condition of approval, and may add bollards to protect the vacuums from vehicles. In response to questions from the Board, Mr. Cleary further testified that the Applicant's use of vacuums would comply with noise pollution standards and the Applicant can add mufflers if complaints are received from neighbors relating to the noise of the vacuums.

9. Mr. Mosely, the Applicant's Traffic Engineer, testified regarding the stacking space at the car wash, explaining there will be two pay kiosks which will allow vehicles to pay and move through the automated car wash quickly, with the tunnels processing multiple vehicles at the same time. Mr. Mosely explained the pay kiosks can process up to 70-120 vehicles per hour, and can stack up to 14 vehicles without affecting the internal vehicle circulation of the Subject Property. Mr. Mosely further testified that the Application is similar to an existing car wash located on Route 70 near I-295, and that the Applicant observed the traffic and flow of the site and believe the Subject Property will operate in a similar manner with no traffic or circulation issues. In response to questions from the Board, Mr. Mosely explained the Applicant is working on resolving other traffic issues with the County.

10. The Board further questioned the Applicant regarding the proposed retail store use. The Applicant's witnesses explained the Applicant would be selling car-related items like air fresheners, windshield wipers, as well as small snacks and drinks. The Applicant would not be selling cooked or prepared foods, and the store will be open 8 AM to 6 PM, with possible later hours in the summer. After further discussion with the Applicant, the Board determined the size of the proposed retail store would need to be reduced as a condition of approval, and the Applicant agreed to reduce the size to approximately 600 sf in total, which will include an office, retail desk, and bathrooms, with no more than 300 sf of "to go" items with the remaining items to be auto-retail related, such as wipers, windshield fluid, and air fresheners. The Applicant cannot sell cooked, grilled, or prepared foods.

11. The Board Engineer, Jim Winckowski, PE, CME, presented and discussed his Review Letters, each incorporated by reference herein. The Applicant agreed, as a condition of approval, to comply with all the recommendations and conditions set forth in the Board Engineer's Review Letters. The Applicant further agreed to submit revised floor plans and revised sign letter detail to the Board Engineer as a condition of approval.

12. The Board Planner, Barbara J. Fegley, AA, AICP, presented and discussed her Review Letters, incorporated by reference herein. The Applicant agreed, as a condition of approval, to comply with all the recommendations and conditions set forth in the Board Planner's Review Letters.

13. After testimony presented by the Applicant's witnesses and professionals, the matter was opened to the public for comment, and the following member of the public appeared at both the June 6, 2018 and July 11, 2018 hearings:

- Edward Macioroski – testified about the proposed car wash use and his experience running a car wash business in the Township. Mr. Macioroski asked various questions and made recommendations to the Applicant and the Board, as further detailed in the Westampton Land Development Board Regular Meeting Minutes, dated June 6, 2018 and July 11, 2018.

14. With regard to the request for bulk variance relief, through the evidence submitted and testimony presented by the Applicant, the Board finds that the Applicant has sustained the burden of proof to support the following variances in accordance with the statutory requirements set forth in the MLUL, *N.J.S.A. 40:55D-70c(2)*:

- Subject Property Lighting – up to 1.5 foot candle whereas only .5 foot candle is permitted. § 250-22G.
- Project Identification Signs – 2 project identification signs including the name of each tenant whereas only the name and logo of the project are permitted to be shown on the signs. § 250-25J(2).
- Sign Area – 268.33 sf signs on Woodlane and Springside Rd whereas only 100 sf signs are permitted. § 250-25J(2))
- Monument Identification Signs – 2 monument identification signs whereas only 1 is permitted. § 250-25J(2).
- Monument Identification Sign Height – A 15 ft high monument sign whereas only 8 ft is permitted. § 250-25G(1)(a).
- Parking Setbacks – 5 ft from the car wash and 8 ft from the retail building whereas 12 ft is required. § 196-8A.

The above deviations from the Township Code requirements serve several purposes of the MLUL, specifically: promotion of the general welfare of the community by encouraging development and increasing the property value of the Subject Property; *N.J.S.A. 40:55D-2a*; providing adequate open space at the Subject Property for the proposed uses; *N.J.S.A. 40:55D-*

2c; providing sufficient space in an appropriate location for a needed commercial use that will be carried out in an environmentally friendly way to meet the needs of Township citizens; *N.J.S.A. 40:55D-2g*; and by improving the visual appearance and aesthetics of the Subject Property by including the 3 façade signs and proposed landscaping. *N.J.S.A. 40:55D-2i*.

15. Through the evidence submitted and testimony presented by the Applicant, the Board finds that the benefits of the requested variances substantially outweigh any detriment, of which there is none, that the variances can be granted without substantial detriment to the public good, and will not substantially impair the intent and the purpose of the zone plan and zoning ordinance due to the permitted use in the C Zone, need for the business in the Township, and large, suitable size of the Subject Property. *N.J.S.A. 40:55D-70*.

16. The Board further finds that the requested variance relief:

- a. relates to a specific piece of property, namely the Subject Property;
- b. that the purposes of the MLUL would be advanced by a deviation from the Township Zoning Ordinance requirements;
- c. that the variance can be granted without substantial detriment to the public good; and
- d. that the benefits of the deviation substantially outweigh any detriment and that the variances will not substantially impair the intent and purpose of the zone plan and ordinance.

17. With regard to the requested preliminary/final major site plan approval, through the evidence submitted and testimony presented by the Applicant's witnesses, professionals, the Board's professionals, and members of the public, the Board finds and concludes that the proposed major site plan complies with all site plan and other standards, specifications, and requirements established by the Township's Zoning Ordinance not addressed by variances and waivers as detailed herein, and that the Subject Property is suitable for the proposed development given the size of the Subject Property and permitted commercial uses in the C Zone. *See, e.g., Levin v. Livingston Twp., 35 N.J. 500, 510-11 (1961); Pizzo Martin Group v. Randolph Twp., 261 N.J. Super. 659 (App. Div. 1993), aff'd. as modified, 137 N.J. 216 (1994).*

NOW, THEREFORE, BE IT RESOLVED, by the Land Development Board of the Township of Westampton, that the within Application for preliminary and final major site plan approval and bulk variance relief for the construction of an 11,780 sf retail building and 4,671 sf car wash facility in the Commercial "C" Zone upon motion duly made by Mr. Blair and seconded by Mr. Guerrero was and is hereby **GRANTED**, subject to the testimony and representations set forth on the record by the Applicant, and any conditions set forth herein.

ROLL CALL VOTE

	<u>Ayes</u>	<u>Nayes</u>	<u>Abstentions</u>	<u>Recusal</u>
Applegate			x	
Barger	x			
Blair	x			
Borger	x			
Freeman	x			
Guerrero	x			
Haas	x			

IT IS FURTHER RESOLVED, the above relief is subject to the following conditions:

1. The Applicant shall conduct the required soil boring in the area of the proposed underground filtration system.
2. The Applicant will keep identification signage to 240 sf and increase the size of the lettering subject to the review and approval of the Board professionals.
3. The Applicant shall install only 15 vacuums at the Subject Property whereas 16 were originally proposed, and shall use the available space to stripe an area for turnarounds.
4. The Applicant shall limit the proposed convenience store use to 600 sf in total, which shall include no more than 300 sf of "to go" items for sale. The remainder of the space shall be for an office, retail desk, and bathrooms, with additional auto-related items being sold such as windshield wipers, windshield fluid, and air fresheners. The Applicant shall not be permitted to offer or sell any cooked, grilled, or prepared food.
5. The Applicant shall comply with all terms, conditions, and recommendations set forth in the Board Engineer's Review Letters.
6. The Applicant shall comply with all terms, conditions, and recommendations set forth in the Board Planner's Review Letters.
7. The Applicant shall comply with all terms, conditions, and recommendations set forth in the Fire Marshal's Report.

IT IS FURTHER RESOLVED, the above relief is subject to the following standard conditions:

1. That the Application, all exhibits, testimony, map, and other documents submitted and relied on by the Applicant, are true and accurate representations of the facts relating to the Applicant's request for approval. In the event that it is determined by the Board, on non-arbitrary, non-capricious and reasonable grounds, that the Application, exhibits, testimony, maps, and other documents submitted are not accurate, are materially

misleading, or are the result of mistake, and the same had been relied upon by the Board as they bear on facts which were essential in the granting of the relief sought by the Applicant, the Board may review its approval and rehear the Application, if circumstances so require, or where a rehearing is necessary and appropriate in the interests of justice;

2. Upon discovery by the Board of clear and convincing evidence of a materially misleading submission, material misstatement, materially inaccurate information, or a material mistake made by the Applicant, the Board reserves the right to conduct a hearing with the Applicant present, for the purpose of fact-finding regarding the same. Should the facts at said hearing confirm that there had been a material fault in the Application, the Board shall take whatever action it deems appropriate at that time, consistent with the MLUL and case law, including but not limited to a reconsideration of its prior approval, a rehearing, a modification of its prior approval, or such other action as appropriate. In addition, at any time within 45 days after the adoption of this resolution, a party of interest may appeal to the Superior Court for an order vacating or modifying any term or condition as set forth herein;
3. The Applicant shall indemnify and hold the Township harmless from any Claims whatsoever which may be made as a result of any deficiency in the Application, or as to any representations made by the Applicant, including but not limited to proper service and notice upon interested parties made in reliance upon the certified list of property owners and other parties entitled to notice, said list having been provided to the Applicant by the Township pursuant to *N.J.S.A. 40:55D-12(c)*, and publication of the notice of public hearing in this matter in accordance with the law;
4. The relief as granted herein is subject to the discovery of any and all deed restrictions upon the Subject Property which had not been known or had not been disclosed to the Board, but which would have had a materially negative impact upon the Board's decision in this matter had they been so known, or so disclosed;
5. The Applicant must obtain approvals from any and all other governmental and/or public agencies as required, whether federal, state, county or local, over which the Board has no control but which are necessary in order to finalize and/or implement the relief being granted herein, as well as any construction that may be a part of said relief. The Applicant is solely responsible for determining which governmental and/or public agencies, if any, such approvals are required;
6. The Applicant is further required to submit a copy to the Board's Secretary of all approvals and/or denials received from such outside agencies, with a copy thereof to the Board's Solicitor, Engineer and Planner;
7. The Applicant must pay the costs of all professional review and other fees required to act on the Application, pursuant to the applicable sections of the Township's land development ordinances, zone codes and any other applicable municipal codes, and the N.J. Municipal Land Use Law;

8. The Applicant assumes all risks should the Applicant fail to obtain any other construction or other municipal permits required with respect to the relief as granted herein during the statutory appeal period associated with the language of this resolution;
9. The Applicant must obtain any other construction or other municipal permits required with respect to the relief as granted herein;
10. The Applicant shall comply with all of the representations and stipulations as contained in the application and as represented through testimony in support of the application.

WESTAMPTON LAND DEVELOPMENT BOARD

BY:

Gary Borger, Chairman

ATTEST:

Marion Karp

Marion Karp, RMC, CMR, Board Secretary

DATE MEMORIALIZED: 10-3-18



DATE FILED: SEP 13 2018 (for office use only)

WESTAMPTON TOWNSHIP LAND DEVELOPMENT BOARD
APPLICATION FOR VARIANCE OR APPEAL

To the Westampton Township Land Development Board:

The petition of MARK and LORIN ARNOLD
who resides at 5 Tulip TREE DRIVE, Burlington NJ 08016
Email MARK.ARNOLD05@gmail.com Phone # 609 261 1813

respectfully shows:

1. A variance is requested with respect to land designated on the Westampton Township Tax Map as Block 909, Lot(s) 9.
2. The property is located at 221 Tulip TREE DRIVE
in a R1 zone district.
- 2a. A variance is sought from Code Section(s) Subsection 250-1 and 250-22A(1) of the Zoning Ordinance to permit construction of a 24ft x 40ft garage
- 2b. Applicant appeals from the decision of _____
on _____, based upon
Sections _____ of the Zoning Ordinance
for the reasons outlined on paragraph 9. *(Complete only for appeals)*
3. Carmine and Loretta DeSopo, who resides at 221 Tulip TREE DRIVE, is
the present owner of the property. Applicant's interest in the property is potential buyer / homeowner
4. No variance, conditional use, or special permit has ever been granted
with respect to this property, except none known

5. The last previous use or occupancy of the property was by CARMINA and LORETTA DESOPO

who used the property for RESIDENCE

6. The dimensions of the property are _____

a. Frontage: 244' b. Depth: 232 ft

The total area of the property is 1.1 ACRE

7. The property is now occupied by (a) building(s). Said building(s) occupy 6 % of the lot(s) as nearly as can be determined. The height of said building(s) is 18 feet and 1 stories. (Please give the maximum if more than one building.) The setback from the nearest street is 75 feet.

8. The percentage of coverage, height and setback of the proposed building(s) are 960 sq. ft, 18' height, minimum 25' setback
representing 2% coverage

9. The petitioner advances the following reasons why the application should be approved:

9a. Describe how the proposed variances would promote the public welfare:

9b. Demonstrate that the proposed variance would do no substantial damage to the Westampton Township Plan: USE AND DESIGN
ARE CONSISTENT WITH THE NEIGHBORHOOD

9c. Provide details of the future use of the property and structures if the variance is granted: REMAINS A RESIDENTIAL PROPERTY,
PROPOSED STRUCTURE WOULD BE FOR STORAGE AND
HOBBY (NOT COMMERCIAL)

9d. Describe any changes in traffic and/or parking patterns: NONE

9e. Describe impact on neighbors if variance is granted for use described in

9c: No impact, property use remains residence

- 10. Six (6) copies of each of a certified survey/plot plan; one copy of proof of publication, proof of service of notice, or such of them as are required by the Board are submitted herewith.
- 11. Proof that taxes and assessments upon the property are not delinquent Is attached hereto.

Mark Arnold
Lorin Arnold
Applicant

STATE OF New Jersey

ss.

COUNTY OF Burlington

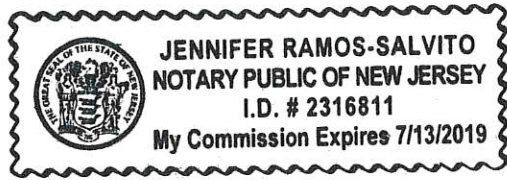
Mark and Lorin Arnold, of full age, being duly sworn according to law on his/her oath deposes and says:

I am the applicant named in the foregoing application and on my oath declare that each and every allegation therein contained is true.

Mark Arnold
Lorin Arnold
Applicant

Sworn to and Subscribed :
before me this 13 day :
of September, 2018.

[Signature]
Notary Public of



The undersigned are the current residents and owners of 221 Tulip Tree Drive, Westampton. We are currently negotiating with Mark and Lorin Arnold for the purchase of this property and are aware of their applying for a variance to build a garage on the property.

Carmine De Sopo
Loretta De Sopo
Carmine and Loretta DeSopo

9/12/18
Date

Statement of Property and Requested Variance

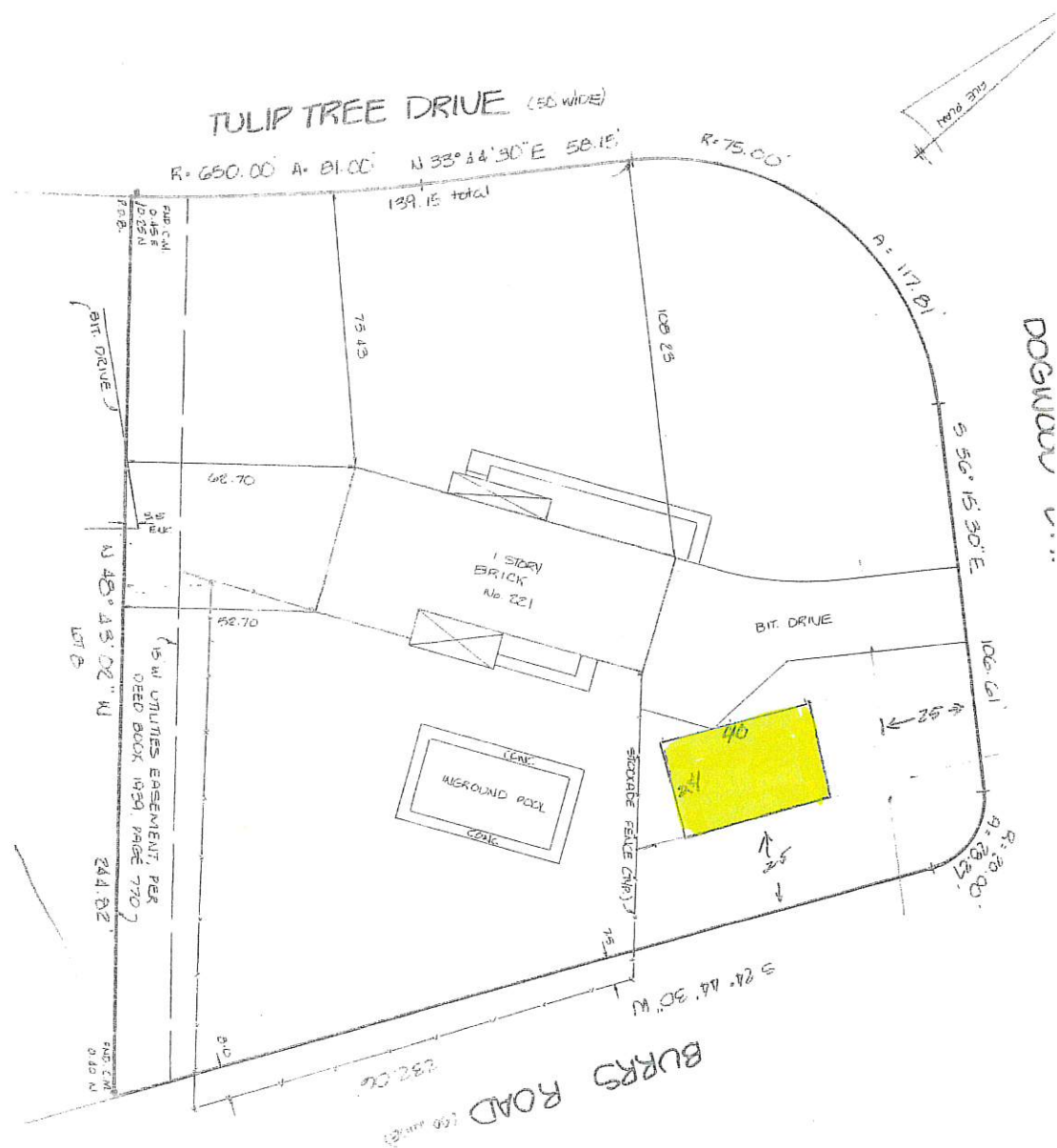
221 Tulip Tree Drive is a 1.1 acre residential property with a single story home. The requested variance is to construct a 24 x 40 garage. The property will remain residential.

The variance is requested to Subsection 250-7 Table I, requiring a minimum of a 50' front yard set back where a 25' set back is proposed.

Additionally, variance to Subsection 250-22 A (1) Performance Standards is requested. Specifically,

"No accessory building in any zone or district shall exceed 600 square feet unless the lot exceeds three acres in size." Where the existing lot is 1.1 acre and a 960 sq. ft. building is requested.

"No accessory building shall be located closer to the front property line than the rear building line of the principal building." Due to the property having streets on 3 sides, the proposed garage is located in the front yard facing Burrs Roads.



JOHN E. GAULTT ASSOC., INC.
 770 E. MAIN STREET
 MOUNTAIN VIEW, NEW JERSEY 08057
 CREATING NUMBER
 L-88-1825

BEING LOT NO. 1 AMENDED LOT OF COUNTY TOWNSHIP 9082A,
 FILED 4-27-88 AS MAP NO. 01872.
 A.L.N. 4779, BLOCK 909, TWP 184P

any person
 of the relying hereon and any other party in interest,
 in consideration of the fee paid for making this survey,
 I hereby certify to its accuracy (except such easements,
 if any, that may be located below the surface of the
 lands or on the surface of the lands and not visible as
 an indication for any hazard or title to reside the title
 to the lands and premises shown hereon.)
JOHN E. GAULTT
 LICENSED SURVEYOR
 12054

CARNEGIE BANK
 FLETCHER TITLE COMPANY, INC.
 300 MARSHALL STREET
 PHILADELPHIA, PA. 19106