



LEBANON BOROUGH
PLANNING BOARD & BOARD OF ADJUSTMENT
MINUTES
May 14, 2014

The Regular meeting of the Lebanon Borough Planning Board/Board of Adjustment was called to order by Chairman Saharic at 7:00 P.M.

The meeting was convened in compliance with the Open Public Meetings Act of 1975. Three local newspapers were notified and a notice is posted at Borough Hall.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited by all.

ROLL CALL:

Members Present: Alexander Saharic, William Skene, Joseph Hauck, Councilman Sam Berger, Henry Hopkins Ron Lapczynski, and David Abeles
Absent: James Newman, William Wilson, Dr. Christopher Uchrin and Mayor Reino
Also present: Clerk Karen Romano, Attorney William Shurts and Engineer Robert Brightly

MINUTE APPROVAL:

Mr. Hauck moved, and Mr. Abeles seconded, a motion approving the Minutes of April 2014.

The motion passed with the following roll call vote:

Ayes: Saharic, Hopkins, Skene, Hauck, Berger, Lapczynski, and Abeles
Nays: None
Absent: Reino, Wilson, Newman and Uchrin
Abstain:

EXPENDITURE APPROVAL:

Mr. Skene moved, and Councilman Berger seconded, a motion to approve the Bill list of May 2014.

The motion passed with the following roll call vote:

Ayes: Saharic, Hopkins, Skene, Hauck, Berger, Lapcynski, and Abeles

Nays: None

Absent: Reino, Wilson, Newman and Uchrin

Abstain:

**GLADSTONE EQUITIES LLC. BLOCK 6 LOT 1: RESOLUTION 01-2014
MEMORIALIZATION**

Chairman Saharic called for a motion to Memorialize Resolution 01-2014 as written.

Mr. Hauck moved, and Mr. Lapcynski seconded, a motion to approve the Memorialization of Resolution 01-2014 as written.

**LEBANON BOROUGH PLANNING BOARD/BOARD OF ADJUSTMENT
RESOLUTION NO. 2014-1
GLADSTONE EQUITIES, LLC
PRELIMINARY/FINAL SITE PLAN APPROVAL and VARIANCES
BLOCK 6, LOT 1**

WHEREAS, Gladstone Equities, LLC applied to the Lebanon Borough Planning Board/Board of Adjustment (Board) for major site plan approval along with necessary variances to construct a multi-use retail building and related site improvements on the property known as Block 6, Lot 1 in Lebanon Borough, the parcel being located in the Commercial ROM 100,000 Square Foot (COM-ROM 100,000) Zone and the Residential Professional (R-1-15P) Zone on the south side of New Jersey State Highway Route 22 (Route 22); and

WHEREAS, the applicant proposes to build a 7,590 square foot building to be used for commercial purposes with 40 onsite parking spaces and ingress and egress to the parking area by means of a single driveway intersection with Route 22; and

WHEREAS, the application requires a use variance because none of the proposed uses are permitted in the R-1-15P zone district and a restaurant is not permitted in the COM-ROM 100,000 zone; and

WHEREAS, numerous other bulk variances are required, primarily because of the split zoning of the property and the fact that it is undersized for the COM-ROM 100,000 zone; and

WHEREAS, the matter was heard before the Board, sitting as a Board of Adjustment, at a public hearing on April 9, 2014, at which time the applicant was represented by Anthony E. Koester, Esq., and testimony was given under oath by Brett Skapinetz, P.E., the applicant's project engineer, by Robert C. Kren, P.P., the applicant's planner and by Steven Kalafer, a principal of the applicant; and

WHEREAS, the Board determined that all jurisdictional requirements of the applicable state statute and local ordinance had been met, thereby conferring jurisdiction upon the Board (sitting as a Board of Adjustment) to consider the matter; and

WHEREAS, the public had an opportunity to attend the public hearing and to participate therein; and

WHEREAS, the Board makes the following findings of fact and conclusions of law:

1. The applicant's plan is shown on a set of drawings entitled "Use Variance/Preliminary Site Plan for Gladstone Equities, LLC Proposed Commercial Development"

prepared by Dynamic Engineering and dated December 12, 2013. The site plan drawings consist of a total of eighteen sheets. The last two sheets were prepared by Fisk Associates and consist of a topographic survey and Department of Transportation map, both of which are dated June 2, 2008.

2. The individual sheets of the Dynamic Engineering site plan are as follows: Sheet 1/16 - Cover Sheet; Sheet 2/16 - Aerial Map; Sheet 3/16 - General Notes; Sheet 4/16 - Demolition Plan; Sheet 5/16 - Site Plan; Sheet 6/16 -Grading Plan; Sheet 7/16 - Drainage and Utility Plan; Sheet 8/16 - Landscape Plan; Sheet 9/16 -Lighting Plan; Sheet 10/16 -Soil Erosion and Sediment Control Plan; Sheets 11 through 16/16 - Construction Details.

3. The entire parcel contains approximately 60,616 square feet or 1.39 acres. It is presently developed with several structures remaining from a former landscape and gardening business. All of these structures will be removed when the current project is built.

4. The subject property is located in two separate zoning districts as mentioned above. The property is located primarily in the R-1-15P zoning district (48,572 square feet or 1.11 acres). The easterly portion of the parcel is located in the COM ROM 100,000 zoning district (12,041 square feet or .27 acres).

5. The R-1-15P zoning district permits detached one family dwellings, transitional uses and professional offices situated entirely within a residential structure. None of the proposed uses is a permitted use in this zone.

6. The COM-ROM 100,000 zone permits most of the proposed commercial uses but restaurants are not permitted uses in that zone. There are a number of restaurants in that zone but all have been permitted by use variance. While this applicant is not certain that it will lease to a restaurant, it is seeking the variance relief so that it will have the flexibility to establish a restaurant if the market dictates that it is an appropriate use.

7. The subject property has significant frontage on two streets. Besides having approximately 550' of frontage along Route 22, the subject property also has over 150' of frontage on Main Street. The subject property is only 135' deep at its deepest point and is approximately 110' deep at the center of the proposed commercial building. Because of its location and its configuration, the applicant argues that the lot is not particularly suitable for residential use but that these same qualities make it suitable for commercial development. Also, the lot has a history of commercial development as the site of a nursery and garden supply business run by the Daub Family for many years.

8. The subject property has no direct access to Main Street and none is proposed as part of this application. There are presently four access points along the frontage of Route 22. The applicant proposes to reduce the number of access points to one such point located near the northwest corner of the property. There will be one entrance lane and one exit lane at that point. These two lanes will be separated by a divider.

9. There are two separate parking areas located to the east and west of the proposed retail building. The parking areas have a total of 40 parking spaces. 19 parking spaces (including a handi-cap space) are located on the west side of the building and 21 parking spaces (including a handi-cap space) are located on the east side of the building.

10. The proposed traffic circulation plan is shown by dark arrows on Sheet 5 of 16 of the site plan. The driveway entrances and exits and the overall size of the facility are not large enough to accommodate tractor trailers. The applicant expects that box trucks and smaller vehicles will be the vehicles making deliveries to the commercial uses on this site, The witness said that deliveries will be made at the front of the store as it is not possible to drive around the rear of the facility.

11. There is no proposed loading space. The site cannot accommodate a separate loading space and Mr. Skapinetz testified that there should not be any need for a designated loading area based upon the size of the building and the type of uses which are anticipated.

12. The proposed detention basin and various landscaped areas are located on the most easterly portion of the premises. They are primarily located in the COM-ROM 100,000 zone although some portions of these improvements are in the R-1-15P zone. Mr. Skapinetz testified that this application will actually reduce the overall impervious coverage on the site by approximately 2%.

13. The applicant will be dealing with the N.j.D.E.P. because it is located within 300' of a class I stream. Technically, a portion of the property is within the riparian buffer zone even though the property is located on the opposite side of Route 22 from the stream. The infiltration basin will contain stormwater run off from the site. There is presently a sheet flow of water directly onto Route 22 from the site. The proposed improvements will take surface water to the basin where it will be collected on the site.

14. Mr. Skapinetz testified that gas and sewer are available for this project. The sewage will need to be taken from the site by means of a pump up to the existing main in Main Street.

15. At the present time, the applicant has a reservation for sufficient sewer capacity to handle the standard commercial uses from the Lebanon Borough Sewer Authority (LBSA). The approval from the LBSA does not include an allowance for a restaurant or food service establishment of any type. If the applicant ultimately seeks a certificate of occupancy for a restaurant or eating establishment of any type, the applicant will have to obtain a revised approval from the LBSA which includes additional capacity for an eating establishment if same is needed.

16. The Town of Clinton Water Company (Town of Clinton Water) has not provided any specific commitment for public water for the project or any specific answers as to when a final decision regarding capacity will be available. The applicant will continue to attempt to obtain capacity from Town of Clinton Water but may ultimately look into drilling a well to supply water, if necessary. If the applicant ultimately seeks to develop the property on a private well, it must obtain approval from the N.J.D.E.P. If the approval granted by this Board ultimately

includes a private well, it will be subject to the applicant getting all the necessary approvals from the N.J.D.E.P. and any other outside agencies with jurisdiction over the matter. The Board takes no exception to the use of a private well in this particular case if public water is not available. The Board Engineer will determine if such change must be reviewed by the Board after reviewing the revised plans for the water delivery system.

17. Both Mr. Skapinetz and Mr. Kren described the subject property as unusual because of the eight (8") difference in grade from front to back. Because of the grade, a wall is needed at the rear of the building. A 6' high board on board fence will sit atop of the wall to buffer the commercial uses from the residential properties located to the south.

18. The applicant proposes additional screening along the Main Street side of the lot. The applicant's screening and landscaping plan will be finalized prior to the start of any construction after all the necessary remaining agency approvals have been obtained and when the site plan has been revised in accordance with those approvals.

19. Nine (9) new light fixtures are proposed throughout the site. They are shoe box type fixtures with metal halide lighting fixtures.

20. The applicant proposes six (6) signs on the building facade, four (4) of which will be on the front of the building and two (2) of which will be along the sides.

21. The applicant is uncertain at this point how many commercial units will ultimately be set up in the building. It is possible that there could be either three or four units depending on what

the market is for this type of commercial structure. The applicant has requested approval for four signs on the front facade in case there are four separate units. In that case, there would be four signs across the front of the building with a total of not more than 42 square feet and two signs, one on either side of the building totaling 27 square feet (there is a discrepancy between the sign schedule on the Dynamic plans and the architectural plans). The square footage of the individual signs will vary. The Board did impose a maximum height for the individual wall mounted signs of 1.75'.

22. All of the signs are located in the R-1-15P zone. The project requires variances from the following ordinance sections:

- a. 7:15-1.01. Maximum Number of Signs - one permanent freestanding or wall mounted sign is permitted; one freestanding and six wall mounted signs are proposed;
- b. 7:15-1.02. Maximum Height of Freestanding Sign - four feet is permitted; ten feet is proposed;
- c. 7:15-1.03. Maximum Area of Freestanding Sign - ten square feet per sign face is permitted; 54 square feet is proposed.

The Board noted that these standards are for residential type uses while this project is commercial in nature. The Board will grant all necessary variance relief to accommodate the proposed signage.

23. The applicant provided Exhibit A-4 which is an architectural rendering of the building. Mr. Skapinetz testified that the applicant had looked at some of the features of the Bourbon Street building located further to the east on Route 22. This building will have brick on its front and side and painted CMU block on the back. The Board is generally satisfied with the proposed look of the building.

24. Mr. Skapinetz testified that the applicant already has Hunterdon County Soil Conservation District approval. Mr. Kalafer mentioned that he would like to erect a flag pole to the west of the monument sign. That was acceptable to the Board. Pursuant to Ordinance Section 7.13-7, the maximum allowable height for the flag pole will be 35'.

25. The Board will retain jurisdiction over the issues of the lighting and traffic flow on the site for a period of one year from the date of full occupancy on the site. The applicant will be required to comply with any recommendations which the Board may have after its final review.

26. The applicant will be required to provide an Operations Manual for the infiltration basin which must be approved by the Board Engineer. It will then become part of a deed covenant, the form of which must be approved by the Board Attorney and recorded prior to the start of construction. The operations logs and maintenance logs will be submitted to the Borough Engineer and the Board on an annual basis.

27. The Board Engineer, Robert C. Brightly, P.E., prepared a written report dated February 7, 2014. The report contains numerous comments, some of which were discussed at the hearing. The applicant has not prepared a revised site plan at this point to address the outstanding

issues. Those issues include Mr. Brightly's comments in Section B (Site Plan Drawing) comments 1 through 25, Section C (Stormwater Management) comments 1 through 6, and Section D (Other Issues Comments) comments 1 through 15. The applicant testified that it will satisfy all the outstanding comments and issues in Mr. Brightly's report.

28. The applicant will not be required to submit revised plans prior to the signing of this resolution. It will, however, be required to submit revised plans following the conclusion of its appearances before the N.J.D.E.P., the N.J.D.O.T. and any other reviewing agencies. The plans will be reviewed and approved by the Board Engineer and signed by all parties prior to start of any construction. Before the issuance of construction permits, copies of the fully signed revised approved site plans will be distributed to the Planning Board, the Borough Engineer and all reviewing agencies.

29. The variances which are required in order to approve this application are outlined in Mr. Brightly's report dated February 7, 2014 under the heading "A General." The variances are listed under Sections A2 and A3. That list of variances is reproduced at the end of this resolution as Appendix A. In addition to the variances mentioned therein, the Board considered a use variance for a proposed restaurant use in the COM-ROM 100,000 zone. Although the building itself is not located within that zone, parts of the improvements are clearly in that zone and the Board considered the use variance issue for that reason.

30. Mr. Kren addressed the use variance questions first. As noted, none of the proposed uses are permitted in the ROM-1-15P district. The building, the off street parking and the driveway intersection of Route 22, as well as the ground sign, are all located within that zoning district. The stormwater management facilities and part of the parking area circulation system will be located in the COM-ROM 100,000 square foot zoning district. Also, for reasons indicated, the applicant will require a use variance from the COM-ROM 100,000 zone requirements for a restaurant.

31. The premises butts Route 22, a major commercial highway, and vehicular access to the site will be only to and from Route 22. No driveway access is provided to Main Street and none will be provided in the future. The location and orientation of the property are commercial in nature.

32. The premises has a long history of commercial use. The property has 550' of frontage on Route 22. It is more suitable for commercial use and was used as a

commercial nursery and landscaping business for many years by the Daub Family. There is no reasonable prospect of this property being used for residential purposes.

33. The property has become run down and is in need of improvement. The redevelopment will improve the aesthetics of the premises and the general area.

34. The planner also noted that Block 6, Lot 1 is a unique parcel in that it is the only property in the R-1-15P zone district which is located along Route 22. It is his conclusion that the property is suitable for commercial use but not for residential use.

35. The planner also noted that the proposal furthers several of the purposes of the zoning outlined in *N.J.S.A.* 40:55D-2. Mr. Kren stated that the development would encourage municipal action to guide the appropriate use or development of all land in the state in a manner to promote the public, health, safety, morals and general welfare. Residential development on this site is not appropriate for the reasons mentioned while commercial development is the most appropriate way to use this property and is its highest and best use.

36. The plan will provide sufficient space in an appropriate location for a variety of commercial uses in accordance with the site's environmental needs. The development of this property in accordance with the proposed site plan will help to achieve this goal of zoning.

37. The plan will encourage the location and design of a transportation routes which will promote the free flow of traffic. The planner noted that the proposed development limits access to Route 22 to one driveway without no vehicular access to Main Street, both of which are positive goals for traffic circulation in the immediate area.

38. The planner concluded that the proposal will provide a desirable visual environment through proper development techniques and good civic design. The site plan proposes to develop the site with a new building, two parking areas, a traffic circulation plan and appropriate landscaping.

39. The Board agrees with the witness's testimony that this is a particular case and that there are special reasons to grant the use variances discussed herein. The applicant has satisfied

both the positive and negative criteria for this variance relief. The latter will be discussed in greater

detail below.

40. Most of the bulk variance requests result from the fact that the lot is undersized. The COM-ROM 100,000 zone requires 100,000 square feet, approximately 2.3 acres. The subject property has only 12,041 square feet located within this zone requiring a minimum lot area variance. Accordingly, it is impossible to develop the property in accordance with the zoning requirements for the COM-ROM 100,000 zone.

41. Because of the size and configuration of the parcel, a lot width area variance is likewise required as the zone requires 150' minimum lot width while this lot is 26.7' wide at its widest point in the COM-ROM 100,000 zone. Mr. Kren noted that no portion of the building is located within this particular zone district.

42. In similar fashion, there are a number of bulk requirements from the R-1-15P zone requirements. That zone has a 50' front yard setback requirement. The proposal is for a 40' setback to the building with 36' to the canopy of the proposed structure. Similarly, the rear setback requirement is 25'. The proposal is for 12.2'.

43. The shallowness of the property necessitates both of these variance requests. The entire commercial building and much of the vehicular circulation areas are located in the R-1-15P zone district. Because that zone standards are for a residential district, it requires combined open space of not less than 65% of the total lot area. This standard is normal for residential development. Because of the differences in setting up a commercial use as opposed to a residential use, the maximum lot coverage standards in commercial districts are normally much higher. At the present time, the existing lot coverage is 64.9%. The proposed lot coverage after the new project is built will be reduced to 63%. Accordingly, there is a relatively minor change in the proposed lot coverage.

44. The overall lot coverage is not unusually high for a commercial project in a commercial zone. As noted, Mr. Kren spent some time detailing why the subject property, despite its zoning, is not suitable for residential development and is really only suitable for commercial development.

45. The applicant is likewise requesting relief from to R-1-15P standard as to impervious coverage in the front yard which is limited to 15%. Currently, 100% of the front yard has impervious cover. The proposed front yard impervious surface for the new project will be 69.8% which is significantly less than the existing impervious cover.

46. The fact that the project is commercial in nature and that the flat part of

the lot is very narrow are reason for the high impervious cover at the front of the lot. The size, shape and topography of the parcel are also reasons why significant parts of the parking area and traffic circulation lanes must be located in the front yard area.

47. The applicant also requires variance relief because no parking of any sort is allowed in the front yard in the COM-ROM 100,000 zone. The ordinance provides that only the side and rear yards may be used for off street parking areas in the COM-ROM 100,000 zone except as otherwise approved by the Planning Board as part of a site plan. Off street parking is shown on this particular site plan within 9.5' of the front property line. It covers 32.6% of the front yard. The small portion of the subject property which is located in the COM-ROM 100,000 zone is located near the front of the property and, because of the limitations of this property, much of the paved area must be located at the front of the site in order to provide for proper traffic circulation and parking.

48. The COM-ROM 100,000 square foot zone requirements include a minimum floor area of not less than 15,000 square feet. No building of any sort is proposed in the COM-ROM 100,000 zone for this project. The reasons for the variance are obvious but a variance is required under the technical terms of the ordinance.

49. The R-1-15P district also prohibits parking in the front yard area. Once again, this is a requirement which is appropriate for residential use but simply does not work for a property being used for commercial purposes generally and for this property, due to its limitations and physical characteristics, specifically.

50. The parking and loading areas violate three sections of the Borough's Off Street Parking requirements. Section 6.01-1.03 provides that off street parking spaces shall not be located nearer to the street line than the building line or setback line. Section 6.04-1 provides that all retail parking spaces shall be 10' wide by 18' long. Section 6.06-1 requires a loading space for this project.

51. The applicant seeks variance relief from all three requirements. Mr. Skapinetz discussed the rationale for the parking spaces being 9' wide by 18' long. Those spaces are sufficient for this proposed use and are the normal standard in most ordinances. The Board is satisfied that the parking spaces are substantial and that they will be sufficient for this project.

The need for parking spaces in the "front yard" area has already been discussed in this resolution as

has the rationale for not providing a separate loading area. The Board is satisfied that the reasoning for each is related to the size, shape and characteristics of the property in question and that, in this particular case, the positive aspects of granting all of these variances outweigh any minor negative aspects.

53. The variances related to signage have been detailed. The applicant is requesting up to six proposed building mounted signs as discussed above. There will be one sign for each commercial unit on the front facade of the building. There will be either three or four signs on the front facade. There will be one sign on either side of the facade advertising the commercial tenant in that end unit. The Board has reviewed the amount of square footage, the location and design of the signage and finds it all to be appropriate for this project.

54. The Board is satisfied that all of the variance relief which was requested for "C" variances can be granted for the reasons outlined in the testimony of the witnesses. The Board is likewise satisfied that the applicant has met the negative criteria for all of the variances. The granting of the relief requested both individually and in total will not result in any substantial detriment to the public good nor will there be any substantial impairment of the intent and purpose of the zone plan and the zoning ordinance.

55. This application involves an extremely difficult piece of property. It is located in two different zones. While most of the property is zoned for residential use, the property is no way suitable for residential use and the property has been used for commercial purposes for more than half a century. The fact that parts of the property are located in two different zones requires variance relief from almost every bulk standard. It probably would not be possible to develop this property in any way without requesting all of this bulk variance relief. It is unlikely that anyone would develop this property for a residential use given its various characteristics including its shape, location and topography.

56. The Board will grant all of the variance relief requested by the applicant and will grant conditional preliminary and final site plan approval.

57. As noted earlier, there will be a significant number of minor changes which the applicant has agreed to make in accordance with the Board Engineer's report. The Board will not require those changes to be made at this time and will not require the submission of revised plans as a condition of the signing of this resolution.

58. The Board will grant the applicant a conditional approval so that it can appear

before any other agencies having jurisdiction over this matter. When the applicant has obtained all

necessary approvals, the Board will require the submission of revised plans which incorporate all items which have been discussed in this resolution and in the Board Engineer's February 7, 2014 report. The revised plans will be reviewed and approved by the Board Engineer prior to the signing of same and prior to the issuance of any construction permits for any purpose.

NOW, THEREFORE, BE IT RESOLVED by the Lebanon Borough Planning Board/Board of Adjustment, sitting as a Board of Adjustment, that the application of Gladstone Equities, LLC for the use variances described in the body of this resolution are hereby granted for the reasons discussed above and

BE IT FURTHER RESOLVED that all of the bulk variances, parking and loading variances and signage variances discussed above are hereby approved for the reasons set forth in the body of the resolution; and

BE IT FURTHER RESOLVED that all of the variances approved herein will run for a term which is concurrent with the term of the site plan which is being conditionally approved herein. The variances are approved only for purposes of this site plan and will therefore have the same period of approval; and

BE IT FURTHER RESOLVED that the applicant's request for preliminary and final site plan approval for a 7,590 square foot building to be used for retail use and office use including restaurant use is hereby approved, subject to the following conditions:

1. If the applicant ultimately receives the necessary agency approvals to permit the development of this project using a private on-site well, the plans will be revised to include the appropriate information regarding the well. That aspect of the revised plans will be reviewed by the Board Engineer who will determine if the change is the type of significant change which will, require further review and/or approval by the Board.

2. Prior to the signing of the approved plans, the following shall occur:

a. The applicant shall obtain all necessary approvals from outside agencies including but not limited to the N.J.D.E.P.

b. The applicant shall prepare a revised site plan which will satisfy all of the conditions of this approval. Said revised plans shall be reviewed and approved by the Board Engineer.

c. The revised plans will include a 6' high board on board fence on the retaining wall along the rear of the property.

d. The maximum height of the wall mounted signs shall be 1.75'.

3. No demolition permit shall be issued until the Municipal Engineer has approved the revised plans and grants his approval for same.

4. Prior to the construction of any improvements on the site, the following shall occur:

a. An estimate of costs and quantities shall be submitted to the Board office and to the office of the Borough Engineer.

b. The applicant shall hold a preconstruction conference with the Borough Engineer and the amount of inspection fees and the performance guarantee shall be determined at that meeting and paid to the Borough of Lebanon prior to the issuance of any construction permits.

5. Prior to the issuance of a Certificate of Occupancy for any of the units, the following shall occur:

a. The applicant shall install all public improvements as shown on the plan.

b. The Board will conduct a night light test for the building.

c. The applicant shall submit a final plan which will be an "as built" plan. No further appearances before the Board will be required unless there is a substantial change to the approved plan. The Borough Engineer will determine what constitutes a "substantial" change.

6. Following the issuance of a certificate of occupancy for the building, the Board will retain jurisdiction for a period of one year to determine the adequacy of the lighting and the traffic circulation plan.

7. The following shall be continuing conditions of this approval:

a. There will be no specific restriction on hours of operation. After 11:00 p.m., however, the only allowed site lighting will be security lighting.

b. No food establishments of any type will be allowed on the premises without the approval of same by the LBSA and the Lebanon Borough Planning Board/Board of Adjustments.

c. funds upon written notification. Neither the Board nor its employees will perform any services in furtherance of this approval if there is a deficiency in any escrow or inspection fee account. The applicant will have a continuing duty to maintain a positive balance in all accounts until all conditions have been satisfied and all charges have been paid.

ALEX SAHARIC, Chairperson

ATTEST:

KAREN ROMANO, Secretary
DATE MEMORIALIZED: May 14, 2014

The motion passed with the following roll call vote:

Ayes: Saharic, Hopkins, Hauck, Lapcynski, and Abeles

Nays: Skene

Absent: Reino, Wilson, Newman and Uchrin

Abstain: Berger

WOODMONT: RESOLUTION 02-2014 MEMORIALIZATION

Chairman Saharic called for a motion to Memorialize Resolution 02-2014 as written.
Mr. Skene moved, and Mr. Hopkins seconded, a motion to approve the Memorialization of Resolution 02-2014 as written.

**LEBANON BOROUGH PLANING BOARD
RESOLUTION NO. 2014-02
WOODMONT INDUSTRIAL PARTNERS, LLC
(Formerly Heritage Capital Group, LLC)
(Formerly KayBee Toys Warehouse and Distribution Center)
FOURTH SITE PLAN AMENDMENT
(Resolution No. 8-2008)
BLOCK 1, LOT 3 (Lebanon Borough)
BLOCK 13, LOTS 9, 10, 11 AND 11.01 (Clinton Township)**

WHEREAS, Kay Bee Toys of New Jersey, Inc. (one of the current applicant's predecessors) previously applied for approval to construct an addition to the existing warehouse building on its property known as Block 13, Lots 9, 10, 11 and 11.01 in Clinton Township and Blockl, Lots 3, 4, 5.01, 6 and 7 in Lebanon Borough with the property in Lebanon Borough being located in the ROM 100,000 Square Foot Zone; the parcel is on the west side of Cokesbury Road (County Route 639) just north of Interstate Highway 78 and a private drive in Lebanon Borough known as Prostack Lane; and

WHEREAS, the Planning Board approved that application on January 11, 1998 as is more fully set forth in this Board's Resolution No. 1-98; and

WHEREAS, the applicant subsequently constructed the improvements shown on that approved site plan; and

WHEREAS, the applicant subsequently requested approval to amend its approved site plan and construct a guard house at the existing warehouse facility; and

WHEREAS, the Planning Board approved that request on November 12, 2003 as is more fully set forth in this Board's Resolution No. 6.-2003; and

WHEREAS, KayBee's successor, Heritage Capital Group, LLC, later asked to further amend the earlier site plan approval and to construct additional loading docks, to make modifications to the trailer parking area and to convert 1,400 square feet of warehouse space into office space; and

WHEREAS, the Planning Board approved that request on June 11, 2008 as is more fully set forth in this Board's Resolution No. 8-2008; and

WHEREAS, that application was treated as a preliminary/final site plan approval and the memorializing resolution was adopted on June 11, 2008; and

WHEREAS, neither the prior applicant nor the current applicant, Woodmont Industrial Partners, LLC were able to complete the project prior to the expiration of the period of protection; and

WHEREAS, the period of protection applicable to final site plan approval pursuant to *N.J.S.A. 40:55D-52 (a)* originally expired on June 11, 2010; and

WHEREAS, the Board granted an initial one year extension of the period of protection as is permitted by law through July 11, 2011 but that extension expired before the project was completed; and

WHEREAS, the applicant also requested an additional one year extension of the period of protection permitted by statute through July 11, 2012 which was granted and memorialized on October 12, 2011; and

WHEREAS, after the current applicant began constructing the project, it determined that certain changes were needed, all of which related to lighting; and

WHEREAS, the applicant requested that the then current site plan approval be amended again which request was granted by the Board and memorialized in Resolution No. 6-2012, both on April 11, 2012; and

WHEREAS, the current applicant, Woodmont Industrial Partners, LLC has

completed all required improvements but there are several differences between the approved plans and the "as built" plans which changes must be reviewed and approved by the Board; and

WHEREAS, the Board finds that all jurisdictional requirements of the state statute and local ordinance have been satisfied and that the Board has jurisdiction over the subject matter of this request; and

WHEREAS, the Board considered these requests for relief at its regular meeting on May 14, 2014; and

WHEREAS, the Planning Board makes the following findings of fact and conclusions of law:

1. The approved plans show a timber guardrail along Prostack Lane. For various reasons, the Borough Fire Department determined that the guardrail was unnecessary.

Therefore, it was not constructed.

2. The approved plans also show two (2) fire access lanes running from Prostack Lane to the warehouse. The Fire Department determined that a single wider fire access lane would be

sufficient. The applicant has constructed a 22' wide fire access lane with a grass paver base. The Fire Department has concluded that the second fire lane is not needed.

3. The Board accepts the Fire Department's recommendations and approves the modifications to the approved plans. The applicant will prepare an appropriate note or notes which will be reviewed and approved by the Board Engineer and a copy of same will be attached to the approved plan as an amendment.

NOW, THEREFORE, BE IT RESOLVED by the Lebanon Borough Planning Board/Board of Adjustment (sitting as a Planning Board), County of Hunterdon, State of New Jersey, that the request of Woodmont Industrial Partners, LLC for the two changes to the approved site plan discussed above be and the same are hereby approved, subject to the following conditions:

1. All terms and conditions of the resolutions previously approved for this site shall remain in full force and effect unless specifically modified herein.

2. The applicant shall provide the note or notes discussed in paragraph #3 above in a form acceptable to the Board Engineer. The approval note or notes will be made part of the approved plan.

3. Neither the Board nor its employees will perform any service in furtherance of this approval if there is a deficit in any escrow or inspection fee account. The applicant

shall have a continuing duty to maintain a positive balance in all such accounts until all conditions have been satisfied and all charges have been paid.

ALEX SAHARIC, Chairperson

ATTEST:

KAREN ROMANO, Secretary
DATE MEMORIALIZED: May 14, 2014

The motion passed with the following roll call vote:

Ayes: Saharic, Hopkins, Berger, Hauck, Lapcynski, and Abeles

Nays: Skene

Absent: Reino, Wilson, Newman and Uchrin

Abstain:

OPEN PUBLIC SESSION

Chairman Saharic opened the floor for public questions. With no questions Chairman closed the floor.

MISCELLANEOUS:

None

ADJOURN

Mr. Skene moved, Councilman Berger seconded a motion to adjourn, there being no further business to come before the Board. The motion was passed by unanimous vote. The meeting was adjourned at 9:25 p.m.

Respectfully submitted,

Karen Romano

Planning Board Secretary

[Type text]

LBPB
4-9-14