

RESOLUTION
PLANNING BOARD
TOWNSHIP OF LIVINGSTON, NEW JERSEY

Decided: April 2, 2013
Memorialized: May 7, 2013

Re: Application No. 2012-48-PFSPV
Applicant: LifeTown, Inc.
Premises: 8-10 Microlab Road, Livingston, New Jersey
Block: 100; Lot: 15
Zone: C-I

SUMMARY OF THE CASE

1. The Applicant is LifeTown, Inc. (hereinafter referred to as the “Applicant”). The Applicant proposes to convert a vacant building to a therapeutic and life skills center primarily for special needs children. The interior of the structure would be reconfigured to include offices, classrooms, conference areas, specialized therapy facilities, and a model village area to provide first-hand training in social skills for special needs young children, teens, and adults with disabilities. Friendship Circle, an affiliate of the Applicant, will also occupy space in the building.

2. Hearings were had before the Livingston Planning Board (hereinafter “Board”) on April 2, 2013 and March 5, 2013. The Applicant was represented by Susan Rubright, Esq., of Brach Eichler, LLC, who confirmed that all jurisdictional requirements have been met, and that all taxes on the premises have been paid.

3. Testifying on behalf of the Applicant were:
 - A: Rabbi Zalman Grossbaum, of the Applicant corporation.

B: Michael Lanzafama, of Casey & Keller, admitted as an expert in planning, engineering and surveying, who supervised the preparation of the Site Plans and survey of the subject premises.

C: Brian Conway, admitted as an expert in landscape architecture.

D: Lance Blake, admitted as an expert in architecture, who designed the architectural plans for the Application.

4. No members of the public appeared either in support of or in opposition to the Application.
5. The subject site has a vacant industrial building of approximately 43,940 square feet. The total area of the lot is approximately 4.3 acres, and the surroundings are a variety of commercial and industrial buildings, as well as a private school that serves children with special needs. The property has an unusual lot configuration in that it is wider than deep and has varying depths. There are two separate existing impervious parking areas. There are existing non-conforming setbacks, as set forth more particularly herein. The current impervious lot coverage measures 76%, which exceeds the Township Code limit of 75%. The Applicant proposes three small additions to the existing building to create a new entry foyer, additional storage space, and a loading area. The additions will increase the size of the building to approximately 47,057 square feet. The impervious lot coverage would be reduced to 61.89% by the elimination of parking spaces on the southerly side, as well as the installation of landscaped islands in the larger northerly parking area.

6. The property currently has a total of 188 parking spaces which are proposed to be reduced to 132, all to be on the northerly side of the property. An outdoor grassed play area would replace the impervious southerly parking area and would be banked for future parking if needed. It could provide an additional 56 spaces. The conversion to the play area would contribute to the reduction of total impervious surface.
7. The proposed use of the building would not generate substantial parking since the majority of visitors would arrive by bus. The primary demographic to be served are special needs children, and they would normally arrive as part of school groups visiting to participate in the program. Religious training would be conducted on the premises on Sundays, when there would be more individual vehicle traffic; but parking is still projected to be more than adequate. Occasional special events are not expected to generate any parking shortages; but the Applicant has arranged with owners of neighboring properties at 570 West Mt. Pleasant Avenue and 16 Microlab Road to use their parking areas on an as-needed basis for overflow for special occasions or events. The Applicant presented letters from those owners agreeing to enter into more formal agreements prior to the opening of LifeTown.
8. The Applicant proposed reduction of existing violations of the bulk requirements :
 - A: The distance of a rear yard parking area from the building is currently 4 feet. Township Code § 170-118.C.(4) requires a 10-foot setback. The Applicant proposes to increase the separation to 5 feet, thus reducing any non-conformance to 5 feet; for which a variance is requested.

B: Existing impervious coverage is 76%, whereas Township Code §170-118.C.(8) allows a maximum of 75%. The Applicant would reduce impervious coverage to 61.89%, thus eliminating the non-conformance.

9. The Applicant requested several variances as follows:

(A) A total of 188 parking spaces are required pursuant to Code § 170-94.E.(1). The Applicant proposes 132 spaces; thus requesting a 56 parking space variance. (The parking requirements are based upon the use as a physical and mental health and rehabilitation center).

(B) A building height of 30.5 feet is proposed, whereas Code §. 170-118.C.(1) allows a maximum of 28 feet; thus resulting in the request for a 2.5 foot (2 feet 6 inches) height variance.

(C) A minimum combined side yard setback of 32.15% (287 feet) is proposed, whereas Code § 170-118.C.(3) requires 35% (318) feet; thus resulting in a request for a 2.85% combined side yard variance.

(D) A minimum rear yard setback of 75 feet is required by Code § 170-118.C.(4), whereas 26.96 feet is proposed; resulting in a request for a 40.04 foot rear yard setback variance.

(E) The Applicant proposes light poles at a height of 24 feet, which exceeds the maximum of 18 feet permitted by Code § 170-94.B.(10); thus resulting in a request for a 6-foot variance.

(F) The Applicant proposes 3 wall signs, whereas only 1 wall sign per tenant is permitted by Code §170-90.L.(2); thus resulting in a variance request for 2 additional wall signs.

(G) The proposed building, as completed, will have a front yard setback of 29.38 feet, whereas 50 feet is required. A front yard setback variance of 20.62 feet is requested from Code §170-118.C.(2)(a).

9. The Applicant originally also proposed a variance for a monument sign that would exceed the permitted size. In the course of the hearing the sign was reduced to conforming size and the request for a variance was withdrawn.

10. The Applicant also requested waivers of two design requirements:
 - A: Primary orientation of the building and primary pedestrian access will be from the side parking lot, not from the front street as required by Code § 170-73.D.(14).
 - B: Sufficient landscape screening is required pursuant to Ordinance 170-73.B.(11) to create visual separation between different types of development.

FINDINGS OF FACT

1. The Board finds that the proposed use is permitted in the C-1 Zone in that it meets the definition of a physical and mental health and rehabilitation center.
2. The Applicant will make substantial improvements to the interior and exterior of the building and to the grounds, including reducing impervious coverage, increasing landscaping, installing a new and attractive design in signage, and that

proposed use will serve a public need for services to be provided to children and others with special needs or handicaps.

3. The following actions on the design waivers requested are taken:

A: A waiver is requested so that primary orientation of the building and primary pedestrian access will be from the northerly side parking lot, not from the front street, as required by Township Code § 170-73.D.(14). The Applicant presented testimony and proof that the proposed main entrance will directly face the parking area, that there is very little, if any, pedestrian traffic that will utilize the facility, that the location of the entrance in proximity to the parking area and where buses can discharge and pickup will best meet the needs of the population to be served, and that the new landscaping on the site will improve the esthetic appearance of the premises.

B: The Board finds that sufficient landscape screening is provided and that no waiver of the requirements of Code § 170-73.B.(11) is needed.

4. The Board finds that the parking variance can be granted because the Applicant has presented testimony that there will be sufficient parking provided to meet the needs and uses of the proposed facility. The majority of children attending will either come in groups by bus or be dropped off by car; and that there will be little need of any additional parking, except in rare instances when there may be special events. To meet those occasional needs, the Applicant will enter into agreements with owners of neighboring properties so that any overflow parking needs can be

met on those properties. Additionally, the Applicant has agreed to bank an area that can accommodate 56 additional parking spaces in the event there is a future change of operations or use that would require greater than 132 parking spaces on site.

5. The bulk variances requested by the Applicant can be granted without any substantial detriment to the public good and will not substantially impair the intent and purpose of the zoning plan or zoning ordinance. The benefits of the variances will outweigh any possible detriment. The building is being enhanced esthetically and the use will meet the needs of the public by providing an appropriate facility to improve the lives of special needs children, teens and adults. Because of the unusual shape of the property, and it being far wider than deep, the setback proposals are reasonable and sufficient. Screening will be provided to prevent any detriment to adjoining property owners. Furthermore, the proposed project with the variances will present a more appropriate zoning than required by the Code.

6. Under Code §170-90.L.(3), Friendship Circle and LifeTown are each entitled to one wall sign that can be placed on an entrance wall or a wall facing a street or on a canopy; provided that they are uniform in terms, design, colors, height of background, style and height of lettering and position on a building wall. Applicant agreed that Friendship Circle logo wall signs and the LifeTown wall signs will be of the same color as the LifeTown canopy sign and that there would be no background colors other than the color of the wall to which affixed.

7. A LifeTown sign may be placed on the canopy as a matter of right, but a variance is required for it to extend above the top of the canopy. A Friendship Circle sign may be placed on the southerly façade as a matter of right because that wall has a secondary entrance to the building. The proposed adjacent LifeTown sign would require a variance as an additional sign for that occupant. The Friendship Circle logo proposed for the tower having been abandoned, no other wall signs for either occupant are proposed. The total wall sign proposals remaining are two for LifeTown and one for Friendship Circle.

8. During the course of the hearing the Applicant amended Plans and also agreed to certain conditions or modifications as follows:
 - A: A board-on-board fence shall be added along the rear property line in the area where there is no room for plantings to provide a buffer for the adjoining hotel property.
 - B: The play area shall be banked for future parking needs, and no permanent structures shall be built thereon.
 - C: The sidewalk from the handicap parking area facing the main entrance shall be widened from 6 feet to 7 feet in width.
 - D. A sign stating “No Right Turn” shall be placed to prevent cars exiting the main parking area from turning the wrong way into the easterly end of the one-way driveway that serves the main entrance of the building, and the location of the “Do Not Enter” at the rear of the building shall be reevaluated and altered subject to the approval of the Township Engineer.

E: The Applicant shall add mix of evergreen and elm trees along the rear of the property.

F: The southerly driveway entrance sign shall be amended to read “Service Entrance Only”, and a “Pedestrian Crossing” sign shall be added at the crosswalk between the building and the play area

G: The logo sign for the “Friendship Circle” shall be the same color as the LifeTown wall sign lettering and the wall signs shall not have any background design and/or coloring.

H: If a mural is included in a façade of the building, it shall not depict activities within the building, or contain any lettering or words or logos, unless a variance permitting it as an additional sign has been obtained from the Board.

I: The lettering on the entrance canopy shall be reduced in size to a width of 30 feet and a height of 3 feet 4 inches. That would be within the 100 square foot maximum permitted, but would exceed the width limit of 20 feet. The sign would continue to project above the canopy. A width variance from Code §170-90.L.(2)(c) would be required, as well as a variance from the Code § 170-90.L.(2)(h)[1] prohibition against a sign extending above the canopy.

J: The proposed logo on the side of the tower shall be eliminated.

K: Friendship Circle and LifeTown wall signs shall be of the same color as the LifeTown canopy sign and there shall be no background color other than the color of the wall to which signs are affixed.

L: The facility shall not permit more than two parties at any one time.

M: Shared Parking Agreements for use of 570 W. Mt. Pleasant Avenue and 16 Microlab Road shall be submitted to the Zoning Officer and the Board Attorney for their approval and shall then be signed before a C.O. is issued. If a shared parking agreement terminates for any reason, the Applicant shall notify the Zoning Officer and the Board Secretary without delay.

9. No members of the public appeared either in support of or in opposition to the Application.

CONCLUSIONS OF THE BOARD

1. The Board finds that the subject property is in the C-I Zone and that the proposed use is permitted.
2. Upon the findings set forth above, the Application for Preliminary and Final Site Plan approval is granted with variances and subject to the terms and conditions herein.
3. The Board grants the design waiver permitting both the orientation of the building and pedestrian access to be toward the side parking area and not to the front street. The Board finds that the building is properly oriented in terms of its projected use, that there will be very little pedestrian traffic that will need access from the front street, that the vast majority of visitors will enter by bus or other vehicle and that the side orientation will provide a more safe and efficient means of dropping off and picking up the children who will be the primary users of the facility.

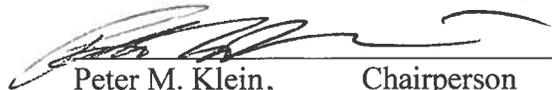
4. The Board finds that it has no jurisdiction over the design of a mural for the building's façade; provided that it is not a sign. No wording, lettering, logo or depiction of activities to be carried out in the building shall be incorporated into any façade mural unless the Applicant has received a variance from the Board permitting such a sign.
5. The Applicant requested a variance from the Code §170-118.C.(4) requirement that an off-street parking area in a rear yard not be nearer than 10 feet to any building. The Board finds that no parking subject to that provision is proposed under the Application. The requested variance is not necessary.
6. Approval of the Application is subject to the following variances which the Board grants for the reasons stated above in the Findings of Fact:
 - A. Subject to the banking of 56 spaces in the play area, the Board grants a 56 parking space variance to allow 132 spaces, whereas 188 parking spaces are required pursuant to Township Code §170-94. E.(1) for a physical and mental health and rehabilitation center.
 - B. A variance from the Code § 170-94.G.(1) provision that banking of parking spaces is permitted when the space is banked for a possible future change in "use" is granted to allow the banking of 56 spaces against a possible increase in the level of operation of the use approved by this resolution.
 - C. The Board grants a building height variance of 2.5 feet (2 feet 6 inches) to allow a building height of 30.5 feet, whereas a maximum of 28 feet is permitted under Code § 170-118.C.(1).

- D. The Board grants a variance of 2.85% from the minimum combined side yard setback requirements of Code § 170-118.C.(3), to permit a 32.15% combined side yard setback, whereas 35% is required by said Ordinance.
- E. The Board grants a rear yard setback variance of 48.04 feet to permit a rear yard setback of 26.96 feet, whereas 75 feet is required by Code §170-118.C.(4).
- F. The Board grants a variance of 6 feet from Code § 170-94.B.(10) to permit a 24-foot light pole height, whereas 18 feet is the maximum permitted.
- G. The Board grants a variance from Code § 170-90.L.(2) to permit a second LifeTown wall sign to be installed on the southerly façade.
- H. The Board grants a 20.62-foot front yard setback variance to permit a front yard setback of 29.38 feet, whereas 50 feet is required pursuant to Code §170-118.C.(2)(a).
- I. The Board grants a variance of 12.0 feet to allow a setback of parking from the front street of 38.0 feet where 50 feet is required pursuant to Code § 170-118.C.(2)(a)[1].
- J. The Board grants a variance of 10 feet to permit the sign on the canopy to have a length of 30 feet where only 20 feet are permitted under Code § 170-90.L.(2)(c).
- K. The Board grants a variance of not to exceed 3 feet 4 inches from the prohibition in Code §170-90.L.(2)(h) so as to permit the sign on the canopy to extend above the canopy.

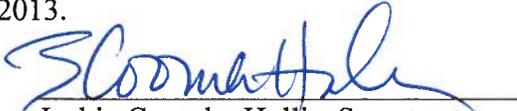
7. The approval herein is subject to all of the Conditions set forth in the Findings of Fact above and to the Board's Model Conditions of Approval numbered 1 through 16, 18 and 19 attached hereto and hereby incorporated in this Resolution.
8. The following conditions shall be met before any permits are issued: Model Conditions of Approval numbered 6, 8.a, 11, 14.a and 18.
9. The following conditions shall be met before any certificate of occupancy is issued: Conditions A – K and M in Findings of Fact 8 above, and Model Conditions of Approval numbered 8.b, 14.b-14.d, 15 and 19.

NOW THEREFORE, for the reasons set forth herein and as stated on the record by the Members of the Planning Board of the Township of Livingston, it is resolved that Preliminary and Final Site Plan approval, with variances, be and are hereby granted and approved, subject to the terms and conditions as set forth herein.

This Resolution is a memorialization of the decision of the Livingston Planning Board made on April 2, 2013 wherein Board Members Dinar, Meade, Klein, Kimmel, Ratner, Kalishman, and Alternate No. 2 Wishnew (in place and stead of Member Leopold) voted in accordance with the terms and conditions set forth herein, the remaining Members having been absent from said hearing or not being eligible to vote.


Peter M. Klein, Chairperson

I hereby certify this to be a true and accurate copy of the Resolution adopted by the Planning Board of the Township of Livingston on May 7, 2013, memorializing the decision of the Planning Board made on April 2, 2013.


Jackie Coombs-Hollis, Secretary

PLANNING BOARD, TOWNSHIP OF LIVINGSTON

Model Conditions of Approval
(As Amended through February 12, 2013)

Every application turns on its own facts and is judged on its own merits. Listed below are models of conditions which may be considered “standard”. A standard can be tailored to specific circumstances, and may not always apply. Other or additional conditions may be tailored for any application.

1. Architecture

- a. Rooftop ancillary structures and equipment (other than alternative small energy systems and communications equipment) shall be screened by material compatible with the exterior finish of the building and matching the exterior color of the building as closely as possible.
- b. Enclosures of trash bins, recycling bins or dumpsters shall be of the same type of materials and the same color as the exterior finish of the building.

2. Blasting

In the event that blasting be necessary on the Site, the following conditions shall apply in addition to all requirements of federal law or regulations:

- a. All blasting operations shall be performed in strict compliance with N.J.S.A. 21:1A-128 *et seq.* and N.J.A.C. 12:190-1.1 *et seq.*, or superseding requirements.
- b. A pre-blast inspection of all structures on all properties adjacent to the Site or within 200 feet of the intended blasting location (whichever is the greater distance) shall be conducted at Applicant's expense. It shall be conducted no more than 60, nor less than 30, days before blasting commences. A written report of the inspection results shall be provided to the owner of each structure inspected within 10 days after completion of the inspection.
- c. Blasting shall occur only between 10:00 a.m. and 3:00 p.m. on Monday through Friday. Blasting during other hours may be permitted, temporarily, by the Township Engineer upon his finding that a condition constituting an emergency exists and necessitates such permission.
- d. Applicant shall coordinate all blasting with the Livingston Police and Fire Departments. If traffic control is required, it shall be provided at Applicant's expense.
- e. Applicant shall give the Township Engineer, the Chief of Police, the Fire Chief, and all owners of structures required to be inspected under "b" above, written notice of scheduled blasting operations to be received not less than 20 days, nor more than 40 days, prior to their commencement. If scheduled blasting operations are delayed or suspended they shall not be resumed until new notice has been given and received. All notices shall include the name and telephone number of Applicant's representative for purposes of receiving and responding to questions and comments.
- f. These conditions do not supersede any requirements of law or regulation that are more strict or restrictive.

3. Cleanliness During Demolition or Construction

- a. At the close of each work day the Site shall be thoroughly cleaned and all trash and construction debris, including that within buildings under construction, shall be placed in covered dumpsters. Dumpsters shall be removed from the Site, and replaced, before they overflow.
- b. Not less often than weekly, and whenever else required by the Construction Official or the Township Engineer, the public streets adjacent to the Site shall be manually or mechanically broom swept to remove dirt, mud or debris originating from the Site and located within 500 feet of the Site.

- c. Dust suppression methods acceptable to the Construction Official and the Township Engineer shall be utilized on the Site.

4. Deeds & Easements

- a. All conditions of approval that are continuing conditions shall be set forth within all deeds executed with regard to the Site.
- b. All deeds, easements, dedications or restrictions required by this approval shall be subject to review and approval by the Board Attorney prior to signing and shall be filed for recordation after such approval. The Applicant shall submit proof of such recordation to the Board Secretary, the Township Engineer and the Construction Official prior to the issuance of any permits.

5. Detention Basins

- a. Stormwater management basins shall be established on lots created for that purpose only. No structures that are not an approved part of the stormwater management system shall be erected on any such lot. Such basins, together with their required landscaping and fencing, shall be completed, and shall have been inspected and approved by the Township Engineer, prior to issuance of the first Certificate of Occupancy.
- b. If the approval of the Application calls for title to such a lot to be transferred to the Township; at such time as the Township accepts any new streets or roads on the Site, title to the lot shall be conveyed to the Township provided that the Township Engineer is then satisfied that the basin has been constructed in full compliance with all applicable requirements. The deed conveying such title shall be subject to prior approval by both the Board Attorney and the Township Attorney.
- c. A maintenance plan meeting the requirements of the Residential Site Improvement Standards or the Township's Stormwater Control Ordinance, or both, as applicable, shall be prepared by Applicant and shall have received the approval of the Township Engineer prior to issuance of any construction permit. Any future revisions to the maintenance plan shall not become effective until the Township Engineer's approval shall have been obtained.
- d. Unless maintenance of the basin is assumed by the Township or a public agency as its direct responsibility, (1) the maintenance plan and any future revisions of it shall be recorded upon the deed of record for the property in

terms approved in advance by both the Board Attorney and the Township Attorney; and, (2) the Applicant shall provide a performance bond for such maintenance, including landscaping and cleanliness.

6. Final Plans

Prior to the issuance of any Township permit for demolition of any structure, preparation of the Site, or construction of any improvement:

- a. The full text of all of the conditions of this approval, and all plan changes agreed to in the course of the hearing, shall be set out on final plans submitted to the Construction Official, the Township Engineer and the Board Secretary; and
- b. Such final plans shall have been reviewed by the Board Secretary or the Board's Planning Consultant for determination of whether the plans conform to the Board's approvals and shall then have been signed by the Board Chairman, the Board Secretary and the Township Engineer.
- c. Such final plans shall comply with the Uniform Construction Code and the Barrier Free Subcode as then in force in the State of New Jersey. If, during performance of work pursuant to the Board's resolution and permits that have been issued, field conditions indicate need for change(s), such need shall be called to the attention of both the Construction Official and the Township Engineer for approval of any such change before it is implemented. If any such change is significant, permission to amend the Site Plan may have to be sought from the Planning Board. Until all requirements under approved plans and the Uniform Construction Code, including accessibility requirements, have been completed or bonded, any certificates of occupancy issued shall be temporary certificates only.

7. Flood Hazards

- a. Insert on the final site plan and/or subdivision map a metes and bounds description of all flood hazard areas located on the Site.
- b. Insert in all deeds for individual lots that contain or are adjacent to flood hazard areas, and on the preliminary and final subdivision maps or plats, the following covenant: "The lands designated herein contain flood hazard areas. There shall be no disturbance of any kind as to any flood hazard area unless permitted by N.J.D.E.P. pursuant to the Flood Hazard Control Act, N.J.S.A. 58:16A-50 *et. seq.* or superseding requirements."

8. Guarantees and Bonds

- a. The approval of this Application is subject to the posting, with terms acceptable to the Township Engineer, of any and all required performance guarantees, bonds, soil erosion and sediment control approvals, and any other requirements of Township ordinances prior to the issuance of any permits for commencement of site preparation or construction.
- b. This approval is also conditioned upon the Applicant's providing, prior to issuance of the first Certificate of Occupancy, a performance guarantee acceptable to the Township Engineer for any aspects of the approved landscaping or fencing that has not been completed by the time of issuance of such certificate.

9. Landscaping & Environmental Protection

- a. All deciduous trees planted shall have a caliper of not less than 2.5 inches measured at a height of 4.5 feet above ground level. All evergreen trees planted shall have a height of 6.0 to 8.0 feet.
- b. Street shade trees shall be planted as required by Township Code § 170-72 and shall not be included in the calculation of Replacement Trees required by the Trees Ordinance.
- c. Any tree or other planting installed in accordance with the plans which dies shall be replaced, within the current or next planting season, in kind and at the same size as it had reached at the time of death; except that if it died more than three years after planting its replacement need not be larger than the size it had reached three years after planting. The same replacement requirements shall apply to any tree or other planting installed in accordance with the plans if subsequently removed because of damage or disease.
- d. No tree existing on the Site at the time of filing of the application shall be removed unless removal is approved under the Trees Ordinance or by this Board. Every existing tree to be preserved shall be tagged and shall be shown on the Site Plan or Subdivision Plan. During site preparation and during construction, each such tree shall be protected by snow fencing or a more substantial means approved by the Construction Official. No soils, excavated materials, or any construction equipment or building materials, shall be stored or operated within a root protection zone that shall be the

greater distance of (i) the crown drip line, or (ii) a distance equal to caliper multiplied by one (1) foot, (but never less than eight (8) feet from the trunk of a tree to be preserved), or anywhere else where such soil or materials can adversely affect the health of trees to be preserved. All work done within the root protection zone shall be accomplished with hand tools.

- e. The grade of land located within the root protection zone shall not be raised or lowered more than three (3) inches unless compensated for by welling or retaining wall methods; but in no event shall welling or retaining walls be installed less than eight (8) feet from the trunk of a tree.
- f. During site preparation or construction, no fuel storage, and no refueling, maintenance, repair or washdown of construction vehicles or equipment, shall occur within fifty (50) feet of any tree to be preserved.
- g. Any provision of the Trees Ordinance, Chapter 306 of the Code of the Township of Livingston, that establishes a conflicting standard or requirement shall control.
- h. No mulch shall be placed, or allowed to accumulate, within six inches of the trunk of any tree or shrub planted on the Site in compliance with this resolution. Mulch shall not be applied, or allowed to accumulate, elsewhere within the drip line of the tree or shrub to a depth in excess of four inches.

10. Noise

- a. No site preparation, demolition or construction activity shall be performed on the Site on Sundays, or before 7:30 a.m. or after 5:00 p.m. on weekdays, or before 9:00 a.m. or after 5:00 p.m. on Saturdays or federal holidays.
- b. All vehicles and motorized machinery operated on the Site shall be equipped with properly operating mufflers.
- c. No site preparation, demolition or construction activity (other than authorized blasting) shall produce, at the property line, (i) continuous airborne sound at a sound level in excess of 65 dBa, or which has an octave band sound pressure level in decibels which exceeds the standards provided in 32 N.J.R. 2230 et. seq., or (ii) impulsive sound in air which has a peak sound pressure level in excess of 80 decibels, or (iii) impulsive sound in air which repeats more than four times in any hour and has a peak sound pressure level in excess of 50 decibels.

- d. Relief from these noise conditions may be permitted, temporarily, by the Township Engineer upon his finding that a circumstance constituting an emergency exists and necessitates such permission.

11. Other Governmental Approvals

- a. Applicant shall comply with all applicable Federal, State and local laws and regulations and obtain any other governmental approvals required for implementation of this application as approved. If any other governmental agency or authority grants a waiver of or variance from any law, rule or regulation, or imposes any condition or requirement, which affects this approval or any of the conditions contained herein, then this Board shall have the right to review such action as it relates to this Board's approval or conditions and to modify, amend or revoke its approval and/or conditions.
- b. No Township permit for demolition of any structure, or preparation of the Site or construction of any improvement shall be issued until proof of request for such required approvals and any action thereupon, shall have been presented to the Construction Official and the Board Secretary by the Applicant.

12. Paving and Sidewalks

- a. Applicant shall install the top course of street paving:
 - (1) For residential development not later than the earlier of three (3) years after the issuance of the first Certificate of Occupancy or three (3) months after fifty percent (50%) of residential units have received Certificates of Occupancy.
 - (2) For non-residential or mixed-use development, prior to issuance of the first Certificate of Occupancy.
- b. All manholes, catch basins, and driveway curbs shall be ramped until the top course of street paving has been installed.
- c. All sidewalks shall be constructed of concrete or of non-asphalt pavers and shall be not less than four feet wide in a residence district or five feet wide in the Business Improvement District. Existing sidewalks that do not meet prior Township Code requirements shall be replaced to the standard for the new sidewalks.

13. Signs

The Board retains jurisdiction over any and all signs until the final Certificate of Occupancy has been issued.

14. Traffic and Parking Safety and Enforcement

- a. At the time of applying for a building permit the Applicant shall submit proof of having filed a written request pursuant to, and in accordance with, N.J.S.A. 39:5A-1, requesting that N.J.S.A. 39:1-1 *et seq.* be made applicable to the roads, streets, driveways, parking areas, etc. within the Site. The Applicant shall provide proof of the governmental action on such request to the Construction Official prior to issuance of the final Certificate of Occupancy.
- b. Lines of sight established for entrance and exit driveways of the Site shall be shown on the as-built site plans, and no structures, trees or plants that would interfere with such lines of sight shall be permitted at any time.
- c. All traffic and parking provisions in the approved site plans or otherwise required by the Board's resolution shall be accomplished prior to issuance of the first Certificate of Occupancy.
- d. The Applicant shall comply with State law and applicable Township ordinances regarding handicapped parking and shall maintain such spaces and all the traffic and parking signage and markings on the Site in good order and repair.

15. Utilities for Site Plans and Major Subdivisions

Applicant shall construct all utilities underground as required by law, and shall submit to the Engineering Department a written instrument from each serving utility evidencing full compliance with this condition and with Township Code §170-73.A.(17) before issuance of any Certificate of Occupancy.

16. Wetlands

- a. Applicant shall insert on the final subdivision map and/or site plan a metes and bounds description of all wetlands, wetlands transition areas, and buffers on the Site.

- b. Where applicable, each deed for a lot, and the subdivision plat, shall contain the following language: “The lands designated herein contain wetlands and wetlands transition areas. There shall be no disturbance of any kind as to any wetlands or wetlands transition areas unless permitted by N.J.D.E.P. pursuant to law, and Best Management Practices (as defined in N.J.A.C. 7:7A-1.4 or superseding requirements) for prevention or reduction of adverse impacts upon or pollution of wetlands, wetlands transition areas and buffers shall be followed at all times. This restrictive covenant shall run with the land and be binding upon the grantees, their heirs and successors and assigns.”

17. Developer’s Agreement

Prior to issuance of any permit for demolition, site preparation, or construction, the Applicant shall have entered into a Developer’s Agreement negotiated with the Township Attorney in conjunction with the Township Engineer.

18. Written Response to Memoranda

Prior to issuance of any permit for site preparation, demolition or construction, the Applicant shall have provided written responses to all issues raised in all memoranda from the Township Engineer, or any consultant to the Township, that were considered by the Board in the hearings.

19. As-built Plans

A final Certificate of Occupancy shall not be issued until the Applicant shall have submitted to the Construction Official four (4) properly signed and sealed copies each of as-built site plans, surveys and building elevations.