

**BOROUGH OF STOCKTON PLANNING BOARD  
COUNTY OF HUNTERDON, STATE OF NEW JERSEY**

**FINDINGS OF FACT, CONCLUSIONS, AND RESOLUTION REGARDING THE  
APPLICATION OF STOCKTON PARTNERS, LLC FOR MINOR SITE PLAN  
APPROVAL AND VARIANCES FOR BLOCK 8, LOTS 7, 8, AND 9**

The Planning Board of the Borough of Stockton, in the County of Hunterdon and State of New Jersey, upon motion of Mr. *Lipsen*, seconded by Ms. *Bassett*, adopts the following findings of fact, conclusions and resolution:

**WHEREAS**, Stockton Partners, LLC (“Applicant”) is the owner of certain property located at 4 North Main Street in Stockton, New Jersey and designated on the Tax Maps as Block 8, Lots 7, 8, and 9, consisting of approximately 2.2 acres in total (the “Property”); and

**WHEREAS**, the Applicant also owns Block 8, Lot 17, a small landlocked parcel (0.048 acres) located at the rear of the Property and developed with a small shed; and

**WHEREAS**, the Property is located in the CR Commercial-Residence District, where hotel and restaurant uses are permitted pursuant to Borough Code §11.01-7 and -8; and

**WHEREAS**, the Property is partially developed and used historically as the Stockton Inn, a hotel and restaurant, as follows:

- Lot 7 (0.19 acres): One-story garage and the remaining foundation from dwelling which was destroyed due to fire.

- Lot 8 (1.66 acres): 2 ½ story inn and an associated wine cellar, patio, and outdoor bar area to the rear. Other structures on the lot include a 2-story dwelling in the southwest corner (“Carriage House #1”) and another 2-story dwelling in the center of the lot (“Carriage House #2”). Parking areas are located to the front and rear of the two dwelling units and consist of 48 parking spots which include two ADA spaces.

- Lot 9 (0.35 acres): 2 ½ story dwelling (“the Victorian House”) and associated garage. Parking on this lot depicts 3 parking spaces, one of which is ADA, and a loading zone; and

**WHEREAS**, the original inn building was constructed almost 300 years ago and was operated as a hotel and restaurant since at least the early 1900’s; and

**WHEREAS**, the Property was previously operated as the Stockton Inn, including a restaurant, seven (7) hotel rooms in the inn building and two (2) hotel rooms in each Carriage House; for a total of eleven (11) hotel rooms; and

**WHEREAS**, the Applicant applied by application dated December 21, 2022 for minor site plan approval with variances (the “Application”) to allow it to redevelop the Property as a hotel and restaurant;

**WHEREAS**, the Applicant proposes the following:

- Exterior improvements include re-pavement and reconfiguration of the existing parking areas, installation of landscaping areas along the frontage and parking areas, and along the dwelling unit in the center of Lot 8
- Interior alterations of the inn building include reconfiguration of the main floor of the inn to provide for the hotel lobby and restaurant, including the kitchen, dining areas, and bar area. The second floor will be retrofitted to provide for four (4) hotel rooms.
- The other associate dwellings will be converted to provide additional hotel rooms.
  - Carriage House #1 to include three (3) hotel rooms, with one (1) being ADA-compliant.
  - Carriage House #2 to include two (2) hotel rooms.
  - The Victorian House to include four (4) hotel rooms.
- The Application proposes a total of thirteen (13) hotel rooms.

**WHEREAS**, Applicant required the following variances pursuant to N.J.S.A. 40:55D-70c(1), all of which are pre-existing, non-conforming conditions:

- Front yard setback where 25 feet is required, and 1.4 feet exists. (Borough Code §11.04-6).
- Side yard setback where 5 feet is required and 0.8 feet exists with a required combined 30% of the lot width required (i.e. 24.06 feet), and 22.4 feet exists. (Borough Code §11.04-7).
- Rear yard setback where 15% of lot depth (i.e. 33.9 feet) is required to any structure and 24.5 feet exists (Borough Code §11.04-8).

**WHEREAS**, the Stockton Borough Planning Board (the “Board”) took jurisdiction over the Application pursuant to N.J.S.A. 40:55D-20, 25, 37, and 60; and

**WHEREAS**, the following documents were submitted to the Board by the Applicant with regard to the Application, are on file with the Board, and are part of the record in this matter:

1. December 21, 2022 letter from Lawrence C. Wohl, Esq. of Archer & Greiner, P.C. to Board Secretary, Monica Orlando, summarizing the submission for minor site plan and bulk variance approvals.
2. Completed Development Application.
3. Completed Development Application Checklist for Minor Site Plans.
4. Certified property owners list dated December 21, 2022.
5. Site Plan entitled, “Minor Site Plan prepared for Stockton Partners, LLC, Borough of Stockton, Hunterdon County, New Jersey, Lots 8 & 9 in Block 8,” consisting of seven (7) sheets, prepared by Goldenbaum Baill Engineering, Inc., with Sheets 1, 3, and 4 dated December 18, 2022, last revised March 29, 2023; Sheet 2 dated December 14, 2022, last revised March 29, 2023; Sheet 5 dated March 28, 2023; Sheet 6 dated December 18, 2022; and Sheet 7 dated March 10, 2023.
6. Architectural Plans, entitled “Stockton Inn, Existing Inn & Restaurant, 1 South Main Street, Stockton, NJ 08559,” consisting of six (6) sheets, prepared by Fluent Design

Group, LLC Engineering Design, with Drawings SK1, SK2, SK3 dated December 12, 2022, last revised March 13, 2023; Drawing SK4 dated December 2, 2022, last revised April 4, 2023; Drawing SK5 dated December 12, 2023, last revised April 4, 2023; Drawing SK6 dated March 13, 2023, last revised April 4, 2023.

7. Lighting Plan for Block 8, Lots 8 & 9 in Stockton, NJ, consisting of one (1) sheet, prepared by Goldenbaum Baill Engineering, Inc., dated March 10, 2023.
8. Deed for the Property.

**WHEREAS**, the Board's professionals submitted the following documents, which are on file with the Board and are part of the record in this matter:

- Completeness Review Letter dated January 17, 2023 from Mark Kataryniak, P.E.;
- Engineering Review Memo dated February 3, 2023 from Mark Kataryniak, P.E.;
- Planning Review Memo dated February 2, 2023 from Joanna Slagle, P.P.;
- Engineering Review Memo dated March 29, 2023 from Mark Kataryniak, P.E.;
- Planning Review Memo dated March 31, 2023 from Joanna Slagle, P.P.

**WHEREAS**, the Board received a memo from Board Engineer, Mark Kataryniak, dated January 17, 2023 containing numerous completeness comments and the Board deemed the Application complete with certain waivers on June 9, 2020; and

**WHEREAS**, the Board secretary received proof from the Applicant that due notice had been provided for the hearing to be held on February 27, 2023, thereby conferring procedural jurisdiction over the Application; and

**WHEREAS**, the Board considered the Application at duly noted public hearings on February 27, 2023; March 13, 2023; and April 4, 2023; and

**WHEREAS**, during such hearings, the Applicant was represented by Lawrence Wohl, Esq. and the Board was represented by Tara Ann St. Angelo, Esq.; and

**WHEREAS**, the following individuals testified during the hearing, were subject to cross examination, and their testimony is part of the record in this matter:

1. Eric Rupnarain, P.E. (Applicant's engineering expert)
2. Jeffrey Stocklos, P.P. (Applicant's design expert)
3. Anthony Rudolph (Applicant's food and beverage consultant)
4. Steve Grabowski, (Managing Member of Applicant)

5. Mark Kataryniak, P.E. (Board's engineering expert)

6. Joanna Slagle, P.P. (Board's planning expert)

**WHEREAS**, the following exhibits were submitted into evidence during the hearing, are on file with the Board, and are part of the record in this matter:

A-1 Site Plans revised and dated March 13, 2023;

A-2 Lighting Plan dated March 13, 2023;

A-3 Architectural Plans revised and dated March 13, 2023;

A-4 Stockton Borough Parking Ordinance (Ordinance No. 18-01, adopted February 6, 2018);

A-5 Site Plans revised and dated March 30, 2023;

A-6 Architectural Plans revised and dated March 30, 2023; and

A-7 Engineering Review Memo dated March 29, 2023 from Mark Kataryniak, P.E. highlighted to note items not addressed by revised plans; and

**WHEREAS**, interested parties and members of the public appeared at the hearing to cross examine witnesses, ask questions, and testify; and

**WHEREAS**, after considering the Application, documents, testimony, and exhibits referenced above, and giving appropriate weight to same, and based upon its understanding of the applicable law, the Board makes the following factual findings and legal conclusions for the purpose of memorializing in a written resolution in accordance with N.J.S.A. 40:55D-10g(a) its action in granting the Application and associated variances subject to the conditions set forth below:

### **FINDINGS OF FACT**

1. **The Application.** As set forth above, the Application seeks minor site plan approval with the following variances to allow Applicant to redevelop the existing Stockton Inn and accessory buildings with a hotel with thirteen rooms and restaurant / event space. Applicant seeks the following variances:

- Front yard setback where 25 feet is required, and 1.4 feet exists. (Borough Code §11.04-6).
- Side yard setback where 5 feet is required and 0.8 feet exists with a required combined 30% of the lot width required (i.e. 24.06 feet), and 22.4 feet exists. (Borough Code §11.04-7).
- Rear yard setback where 15% of lot depth (i.e. 33.9 feet) is required to any structure and



24.5 feet exists (Borough Code §11.04-8).

The Application also sought a design waiver from parking requirements. However, Borough Ordinance No. 18-01 (adopted on February 6, 2018) amended Section 6.06-1.01 of the Borough Code to read: “The number of off-street parking spaces required by the specific use shall be provided based only on the additional gross floor area added.” Therefore, it was determined during the course of the hearings that such design waiver was not required.

2. **Comparison of Existing Site Conditions and Proposed.** Applicant’s Engineer noted the following differences between the existing site conditions and the proposed Application:

- a. *Number of hotel rooms.* The property in its existing condition contains eleven (11) hotel rooms as follows: Seven (7) rooms in the Inn Building and two (2) in each Carriage House. The Application proposes a total of thirteen (13) hotel rooms as follows: Four (4) rooms in the Inn Building, three (3) rooms in Carriage House #1, two (2) rooms in Carriage House #2, and four (4) rooms in the Victorian House.
- b. *Landscaping.* Landscaping will be added throughout the Property in order to provide buffers to the neighboring properties.
- c. *Lighting.* Lighting will be added in the parking lot for the Inn Building and at the front of the Inn Building for safety purposes.
- d. *Pedestrian Improvements.* The sidewalks at the front of the Inn Building are being improved to provide for pedestrian safety.
- e. *Parking.* The parking lot will be improved to provide for safer traffic circulation and increase the number of parking spaces from 38 to 55.
- f. *Ingress and Egress.* The Property is accessed through a single large curb cut. The circulation pattern will be changed to provide for separate ingress and egress driveways. The parking lot for the Victorian House on Lot 9 will be accessed via a separate driveway.
- g. *Victorian House.* The Victorian House will be partially demolished and rebuilt on the existing foundation. The Victorian House will also include four (4) hotel rooms and be included as an accessory building to the main Inn Building.

3. **Completeness Review.** The Application was deemed complete at the February 27, 2023 Planning Board meeting.

4. **Testimony.**

a. *Steve Grabowski (Applicant).* Mr. Grabowski is the managing member of the Applicant. Mr. Grabowski testified to the general nature of the proposed use of the Property. He intended to redevelop the Property for use as a hotel and restaurant / bar with an accessory use as an event venue. He noted that the venue space would not accommodate larger events; therefore, he intends to use the event space for private events of around seventy people. When asked about trash removal, Mr. Grabowski noted he was contracting with a licensed company.

In response to questions from the Board Planner, Mr. Grabowski confirmed that the Carriage Houses and Victorian House are identified as suites to the main Inn and will be

accessory to the hotel use. He acknowledged that if at any time the business plan will change and those structures will be converted to a different type of rental, that amended site plan and / or variance relief may be required.

Mr. Grabowski also confirmed that the garage on Lot 7 was demolished and will be replaced with an accessory storage structure on the existing concrete pad. Such structure will have the same footprint and will be the same height as the previous structure.

Mr. Grabowski also confirmed that the Victorian House will not be completely demolished, the existing foundation and some of the framing will be reused.

In response to questions from the Board Planner, Mr. Grabowski stated that he dumpster enclosure has not been completely designed. However, it will be 6-feet tall and be built with masonry or board on board.

b. *Eric Rupnarain (Applicant's Engineer)*. The Board accepted Mr. Rupnarain's credentials and qualified him as an expert. Mr. Rupnarain, testified at all three hearings. He testified to the general site layout, parking, landscaping, and lighting.

Applicant, he said, was requesting variances pursuant to N.J.S.A. 40:55D-70(c)1 as follows:

- Front yard setback where 25 feet is required, and 1.4 feet exists. (Borough Code §11.04-6).
- Side yard setback where 5 feet is required and 0.8 feet exists with a required combined 30% of the lot width required (i.e. 24.06 feet), and 22.4 feet exists. (Borough Code §11.04-7).
- Rear yard setback where 15% of lot depth (i.e. 33.9 feet) is required to any structure and 24.5 feet exists (Borough Code §11.04-8).

All are pre-existing conditions and are not exacerbated by the improvements proposed by the Application.

As to the design waiver requested for parking, during the course of the hearings, Mr. Rupnarain noted that additional parking was not required as per Ordinance No. 18-01 because no additions to the gross floor area was being proposed by the Application

Mr. Rupnarain noted that there is a triangular wedge of land to the west of the Property that is not encompassed by any existing surveys or property descriptions. Therefore, the Applicant intends to file an action for quiet title to merge this "gore" with the Property. Lots 7, 8, and 9 will also be merged as a condition of approval of the Application.

With regard to traffic circulation and parking, Mr. Rupnarain addressed concerns of the Board and the Board Engineer through testimony and various site plan revisions. The driveway opening for Lot 8 will be divided to provide for separate ingress and egress driveways. A stop sign will be erected and stop bar painted at the exit driveway. The loading area for the Inn

Building will be on Lot 9. The driveway for Lot 9 is also proposed to be better defined. The driveway / curb cuts into Lot 10 will be removed and closed. The Applicant revised the site plans to provide for one way circulation and angled parking spaces. The parking lot will be properly striped and painted with directional arrows and proper signage erected to delineate this traffic pattern. After revising the site plans, Mr. Rupnarain was able to confirm that 55 parking spaces will be provided on the Property and three will be equipped with chargers for electric cars.

Mr. Rupnarain testified that islands and excess pavement will be removed as part of the improvements on the Property. This will result in a slight reduction in impervious coverage. Therefore, this eliminates the need to provide any additional stormwater management facilities.

Mr. Rupnarain noted that a signage plan for the project has not been finalized yet. However, Applicant will agree to comply with any applicable Borough ordinances.

With regard to drainage on the Property, Mr. Rupnarain testified that he revised the plans consistent with comments from the Board Engineer to direct stormwater to the storm drain on the Property.

With regard to water and sewer service, Mr. Rupnarain testified that Applicant will need to approach the Borough governing body regarding the moratorium on new water and sewer hookups.

With regard to trash removal, Mr. Rupnarain noted that an enclosed dumpster would be provided on Lot 8 and the rear of the parking lot.

With regard to Lot 17, Mr. Rupnarain confirmed that Lot 17 was not part of the Application and would not be consolidated with the rest of the Property. Lot 17 is a landlocked parcel and is isolated from the rest of the Property by a paper street.

Mr. Rupnarain testified that although the Applicant did not provide a formal landscaping plan, landscaped and buffered areas are noted on the site plans. With regard to the buffering between Lots 9 and 10, no landscaping is proposed because there is an existing fence. As a condition of approval this fence will have to be maintained in perpetuity.

With regard to lighting, Mr. Rupnarain testified that a total of five (5) fixtures will be added to the parking lot and around the Inn Building. One eighteen-foot tall fixture will provide adequate lighting for almost the entire parking lot. Four fifteen foot high fixtures will be added near the Inn Building and accessory buildings. The fixtures will be downward facing and full cut off. The light fixtures will also be dimmable and will be lowered during later hours to the extent feasible while still providing for safety. In response to comments from the Board Engineer, a schedule for the dimming of the lights will be added to the plans.

In response to questions and comments from Board Members, the site plans were revised to address pedestrian safety. The plans call for improving the sidewalk along the frontage of the Property. The improvements provide for a continuous pedestrian pathway along the frontage of

the Property. New sidewalk will be constructed in front of Carriage House #1, new striping will be painted on the existing pavement in front of Carriage House #2 to function as a sidewalk, and the “sidewalk” will reenter the sidewalk in front of the Inn Building.

In response to questions and comments from Board Members and the Board Planner regarding Lot 7, Mr. Rupnarain clarified that an accessible pathway will be provided. The area will be improved with a paver patio and bocce ball court; however, the Applicant agreed that the amenities will be available only to guests of Carriage House #1 and not all users of the hotel. No new buffering is proposed along the property line between Lot 7 and Lot 6 due to the presence of existing landscaping. However, as a condition of approval, the Applicant agreed that landscaping would be provided in the event the existing landscaping is removed or dies.

Mr. Rupnarain testified that the site plans would be revised to address all comments from the Board Engineer and Board Planner as a condition of approval.

c. *Jeffrey Stocklos (Design Consultant).*

Jeffrey Stocklos presented his qualifications to the Board. He is a designer and not yet a licensed architect. He will require a licensed architect to sign and seal any plans. He was qualified as an expert in architectural design. He noted that since filing the Application, the Applicant removed the bakery area in the Inn Building and replaced such with an expanded dining room. He testified that the plans for the Carriage Houses and Victorian House were revised to reflect the correct number of hotel rooms.

As to the Victorian House, he testified that the rebuilt house will not exceed the ordinance requirements of 35 feet. The garage associated with the Victorian House will be renovated and not used for hotel or other housing purposes.

Board Members extensively questioned Mr. Stocklos on the architectural style of the reconstructed Victorian House.

d. *Anthony Rudolph (Food and Beverage Consultant).*

Mr. Rudolph was qualified as an expert in the area of restaurant operations. He testified at all three hearings. He testified that the Property would host smaller events of about up to seventy (70) guests. He did not foresee public ticketed events would be hosted at the Property. It is the intent of the Applicant to have bands or a DJ on the outdoor patio.

In response to questions from Board Members, Mr. Rudolph noted that it is typical in the restaurant industry for the dumpster to be placed far from the kitchen. He stated that the area at the front of the restaurant should be “clean in” only. Mr. Rudolph also specified that potential odors from trash can be controlled with frequent emptying. Additionally, in response to questions from Board members, Mr. Rudolph testified that there is a grease trap on-site and that cooking oil will be stored on site prior to proper disposal.

5. **Public Comment.** As noted above, members of the public appeared and asked questions of each witness. Members of the public made general comments concerning the Application regarding parking, noise, and hours of operation.

6. **Review by Board's Professionals.** The Board received two (2) Engineering Review Memos from Mr. Kataryniak and two (2) Planning Review Memos from Ms. Slagle. A copy of these review memos are attached to and made part of this Resolution. All of the review memos were reviewed at the public hearings with Applicant's experts.

7. **Board Member Discussion.** As noted above, Board Members asked questions of the witnesses presented. Board Members also discussed the appearance of the Victorian House, pedestrian safety, and hours of operation.

Applicant agreed to address, by changes to the site plan or otherwise as needed, to the satisfaction of Mr. Kataryniak and Ms. Slagle the comments made at the hearings and contained in their Review Memos.

8. **The "C(1)" Variances.**

As set forth above, Applicant has requested three (3) "c(1)" variances:

- Front yard setback where 25 feet is required, and 1.4 feet exists. (Borough Code §11.04-6).
- Side yard setback where 5 feet is required and 0.8 feet exists with a required combined 30% of the lot width required (i.e. 24.06 feet), and 22.4 feet exists. (Borough Code §11.04-7).
- Rear yard setback where 15% of lot depth (i.e. 33.9 feet) is required to any structure and 24.5 feet exists (Borough Code §11.04-8).

The Board's findings as to the positive and negative criteria of these "c(1)" variance are as follows:

a. *Findings as to the Positive Criteria of the "C(1)" Variances.* The Board finds that Applicant has satisfied its burden of demonstrating that the strict application of the zoning ordinances will result in an undue hardship as result of the shape and existing conditions of the Property.

b. *Findings as to the Negative Criteria of the "C(1)" Variances.* The Board's findings as to the negative criteria of the "c(1)" variances are as follows:

(1) As to the first prong of the negative criteria, provided that the conditions set forth below are imposed and complied with pursuant to the findings set forth above, the Board finds that the "c(1)" variance can be granted to allow the proposed redevelopment of the Property as a restaurant and hotel without substantial detriment to the public good.

(2) As to the second prong of the negative criteria, the Board finds that the “c(1)” variances can be granted to allow the redevelopment of the Property as a restaurant and hotel without substantial impairment of the intent and purpose of the zoning ordinance and master plan. While granting “c” variances to allow the redevelopment impairs the intent and purpose of the zoning ordinance and master plan to an extent, the impairment is not a substantial impairment when balanced against the benefits gained (i.e. an efficient use of the land without increasing impervious coverage, building coverage, or soil disturbance).

9. **Minor Site Plan Review.** Finally, as set forth above, minor site plan approval has also been requested. The Board’s findings as to site plan review are as follows:

- a. As to the positive criteria of site plan review, other than the zoning ordinance regulations set forth above from which Applicant applied for variance relief, and provided that the conditions set forth below are imposed and complied with, the Board finds that the proposed development and the site plans will comply in all respects with all remaining applicable zoning ordinance regulations and all applicable site plan ordinance requirements.
- b. As to the negative criteria of site plan review, the Board repeats as if fully set forth herein its specific findings set forth above in respect of the first and second prongs of the negative criteria of the “c(1)” variance.

## **CONCLUSIONS**

### **1. Minor Site Plan Review.**

a. *Standards for Minor Site Plan Review.* N.J.S.A. 40:55D-46.1 sets forth the standards for approval of minor site plan applications. The statute states that approval can be granted if the plans comply with all applicable ordinances. If the proposed development does not comply with all applicable ordinances, approval must be denied, unless the Board grants exceptions or variance *or* if the Board imposes conditions requiring revisions of the plans.

b. *Conclusions as to Minor Site Plan Review.* As set forth above in the factual findings, the Board found that, other than those zoning ordinance regulations from which Applicant applied for variance relief, and provided that the conditions set forth below are imposed and complied with, the proposed development and the site plans will comply with all applicable ordinance provisions. As to the negative criteria, the Board found that minor site plan approval can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the master plan and zoning ordinance, provided that the conditions set forth below are imposed and complied with. As such, the Board concludes that minor site plan approval can and should be granted subject to the conditions set forth below being imposed and complied with.

2. **“C(1) Variance.** The Board’s conclusions as to the c(1) variance are as follows:

a. *Standards for Considering the “c(1)” Variances.* The Board has the power to grant “c(1)” or so-called “hardship” variances pursuant to N.J.S.A. 40:55D70(c)(1) where: “(a) by reason of exceptional narrowness, shallowness or shape of a specific piece property, (b) or by



reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of extraordinary and exceptional situation uniquely affecting a specific piece of property or the structure lawfully existing thereon; the strict application of any regulation . . . would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of such property.” (i.e. the “positive” criteria). Additionally, an applicant must prove that such variance can be granted “without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.” (i.e. the “negative” criteria). The phrase “zone plan” as used in the N.J.S.A. 40:55D-70 means the Township “master plan.” Medici, supra, 107 N.J. at 4, 21.

b. *Conclusions as to Grant of the “c(1)” Variance.* As set forth above in the factual findings, the Board found that the strict application of the front, rear, and side yard setbacks will result in exceptional and undue hardship upon the Applicant due to the existing conditions of the Property. The Board thus found that denying the requested variances would prohibit improvement of the Property. Finally, as also set forth above in the factual findings, the Board found that the “c(1)” variance could be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the master plan and zoning ordinance. As such, the Board concludes that it can and should grant the “c(1)” variances.

3. **Conclusions as to the Imposition of Conditions.** Boards have inherent authority to impose conditions on any approval they grant. North Plainfield v. Perone, 54 N.J. Super. 1, 8-9 (App. Div. 1959), certif. denied, 29 N.J. 507 (1959). Further, conditions may be imposed where they are required in order for a board to find that the requirements necessary for approval of the application have been met. See Alperin v. Mayor and Tp. Committee of Middletown Tp., 91 N.J. Super. 190 (Ch. Div. 1966) (holding that a board is required to impose conditions to ensure that the positive criteria is satisfied); Eagle Group v. Zoning Board, 274 N.J. Super. 551, 564-565 (App. Div. 1994) (holding that a board is required to impose conditions to ensure that the negative criteria is satisfied). Moreover, N.J.S.A. 40:55D-49a authorizes a board to impose conditions on a preliminary approval, even where the proposed development fully conforms to all ordinance requirements, and such conditions may include but are not limited to issues such as use, layout and design standards for streets, sidewalks and curbs, lot size, yard dimensions, off-tract improvements, and public health and safety. Pizzo Martin Group v. Township of Randolph, 137 N.J. 216, 232-233 (1994).

## **RESOLUTION**

**NOW, THEREFORE, BE IT RESOLVED**, that Applicant, Stockton Inn, LLC, is

granted the following relief:

1. **“C(1)” Variances from the Front Yard Set-Back Regulations.** Subject to the conditions set forth below, a “c(1)” variance is granted to allow a 1.4 foot front yard setback where 25 feet is required in the CR District pursuant to Borough Code §11.04-6.



2. **“C(1)” Variances from the Side Yard Set-Back Regulations.** Subject to the conditions set forth below, a “c(1)” variance is granted to allow a 0.8 foot side yard setback where 5 feet is required and a combined 22.4 feet side yard setback where 30% of the lot width is required in the CR District pursuant to Borough Code §11.04-7.
3. **“C(1)” Variances from the Rear Yard Set-Back Regulations.** Subject to the conditions set forth below, a “c(1)” variance is granted to allow a 24.5 foot rear yard setback where 15% of the lot depth feet is required in the CR District pursuant to Borough Code §11.04-8.
4. **Minor Site Plan Approval.** Subject to the conditions set forth below, minor site plan approval is granted to the site plans referenced above.

**BE IT RESOLVED FURTHER,** that the Applicant is granted site plan approval for the proposed improvements subject to the conditions set forth below:

A. Applicant shall address to the satisfaction of the Board Engineer and Board Planner, changing and adding to the site plan and other documents where necessary, all Comments set forth in the following Review Memos (copies attached):

- Engineering Review Memo dated February 3, 2023 from Mark Kataryniak, P.E.;
- Planning Review Memo dated February 2, 2023 from Joanna Slagle, P.P.;
- Engineering Review Memo dated March 29, 2023 from Mark Kataryniak, P.E.;
- Planning Review Memo dated March 31, 2023 from Joanna Slagle, P.P.

B. Applicant shall file an action for quiet title within six (6) months of the date of adoption of this Resolution concerning the “triangular wedge” gore. Applicant shall copy the Board Attorney on such filing.

C. Applicant shall revise the grading plan in compliance with testimony provided at the hearing. The Board Engineer must review and approve such revised grading plan prior to Applicant’s receipt of building permits or a certificate of occupancy.

D. Applicant shall provide a signed and sealed survey, which must be reviewed and approved by the Board Engineer prior to Applicant’s receipt of building permits or a certificate of occupancy.

E. Applicant shall revise the lighting plan to indicate details of the light fixtures, including dimmers. The Board Engineer must review and approve such revised lighting plan prior to Applicant’s receipt of building permits or a certificate of occupancy.

F. Applicant shall revise the lighting plan to indicate the operational hours for the lighting consistent with testimony presented at the hearing. Consideration must be taken to leave an amount of residual lighting for the security and safety of hotel guests. The Board Engineer must review and approve such revised lighting plan prior to Applicant's receipt of building permits or a certificate of occupancy.

G. Applicant shall provide a signage plan in compliance with applicable Borough Ordinances, which must be reviewed and approved by the Board Engineer prior to Applicant's receipt of building permits or a certificate of occupancy. All signs shall be subject to the issuance of a permit from the proper Borough official, including the "Stockton Inn" sign proposed for the front of the Inn Building.

H. Applicant shall consolidate Block 8, Lots 7, 8, and 9). A deed description and form of deed must be provided for review and approval of Board attorney and Board Engineer. Such deed must be recorded prior to Applicant receiving building permits or a certificate of occupancy.

I. Applicant shall revise the plans to indicate the installation of a grease trap. The Board Engineer must review and approve such revised plans prior to Applicant's receipt of building permits or a certificate of occupancy.

J. Applicant shall revise the site plans to reflect a landscaping plan. At a minimum landscaped areas must be shown on the plans with proposed number of plantings and species indicated. Such revised plans must be reviewed and approved by the Board Engineer and Board Planner prior to the issuance of any building permits or certificates of occupancy to Applicant.

K. Applicant shall revise the site plans to indicate the proposed pavement restoration and reconstruction. Such revised plans must be reviewed and approved by the Board Engineer and Board Planner prior to the issuance of any building permits or certificate of occupancy to Applicant.

L. Applicant shall revise the site plans to reflect pedestrian crossing signage and painted crosswalks across the driveways. Such revised plans must be reviewed and approved by the Board Engineer and Board Planner prior to the issuance of any building permits or certificate of occupancy to Applicant.

M. Any striped pavement area for pedestrian crossing that connects the sidewalks along the frontage of the Property shall be maintained in conformance with Borough ordinance as if it were a sidewalk with regard to maintenance and snow removal.

N. Prior to the issuance of any building permits or certificate of occupancy, Applicant shall make an application or request to the Borough governing body regarding water availability.

- O. No public ticketed events shall be permitted on the Property.
- P. Outdoor amplified music must cease by 10 pm. Applicant shall otherwise comply with N.J.A.C. 7:29-1.1 et seq.
- Q. Applicant must repair or replace the fence between Lots 9 and 10. Such fence shall be maintained in good condition for the life of the development.
- R. In the event the landscaping on Lot 6 which provides a buffer to the bocce court and patio on Lot 7 is dies or is otherwise removed, Applicant will replace such with sufficient screening landscaping or fencing to provide a buffer. A plan for such landscaping and screening will be provided to the Board Engineer within 30 days of the death or removal of the existing landscaping for review and approval. The new screening landscaping will be installed within 60 days of approval of the plans by the Board Engineer or as soon as seasonably practicable.
- S. The amenities for Carriage House #1 (i.e. patio, and bocce court) will be used exclusively by guests of such building and will not be utilized by guests of events held at the Property, guests of the Inn Building, Carriage House #2, or the Victorian House. Proper signage shall be placed at the entrance to the patio from the parking lot indicating that it is a private area.
- T. Applicant shall provide the site plans to the local fire company for review and revise the plans in accordance with any recommendations of the local fire company.
- U. Prior to Applicant's receipt of building permits or a certificate of occupancy, Applicant shall obtain all outside agency approvals or applicable waivers; including, but not limited to those from Delaware & Raritan Canal Commission, New Jersey Department of Transportation, Hunterdon County Planning Board, New Jersey Department of Environmental Protection, and Hunterdon County Soil Conservation District.
- V. Applicant shall execute a Developer's Agreement in a form acceptable to the Borough Attorney and approved by the governing body prior to the issuance of a building permit or certificate of occupancy to the Applicant.
- W. All landscaping on the Property shall be maintained for the life of the development. Any failure to maintain such landscaping shall constitute a zoning violation and may be enforced accordingly. For the purposes of this Resolution, "maintenance" shall include trimming landscaping and removing and replacing dead or dying landscaping.
- X. This Approval is subject to the posting, with terms acceptable to the Board Engineer and Borough Attorney, of any and all required performance guarantees or bonds prior to the issuance of any permits for commencement of site preparation or construction. This shall include a two-year landscape maintenance bond in an amount to be determined by the Board Engineer.

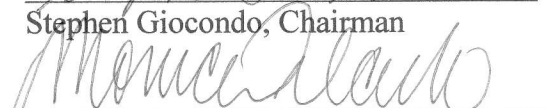
Y. This approval is conditioned on the payment of real property taxes as required by the Borough Code, the payment of any applicable outstanding fees and assessments, payment of professional fees by Board professionals in connection with the review and approval of this application and the preparation of this Resolution, and the procurement of any other agency approvals or waivers thereof as applicable to the development.

Z. A copy of this Resolution may be recorded by the Board in the Hunterdon County Clerk's Office.


AA. Applicant may begin and be issued any permits for interior improvements prior to Applicant's compliance with all conditions of this Resolution.

A copy of this Resolution shall be sent by the Planning Board Secretary to: the Applicant; the Stockton Borough Clerk; the Zoning Officer; and the Construction Official, within ten (10) days of the date hereof.

  
Stephen Giocondo, Chairman

  
Monica Orlando, Secretary

*I hereby certify the above to be a true copy of the Resolution adopted by the Stockton Borough Planning Board at its meeting on May 2, 2023, and further certify that same is a true memorialization of the Official Action taken by the said Board at its regular meeting on April 4, 2023.*

  
Monica Orlando, Secretary

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THOSE IN FAVOR: 0

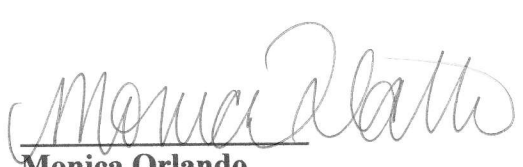
THOSE OPPOSED: 0

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The above memorializing resolution was adopted on May 2, 2023 by the following vote of eligible Board members:

Member	Yes	No	Abstain	Absent
Lipsen	✓			✓
Miller	✓			
Hunt	✓			
Giocondo	✓			
Torkelson				✓
Bonanni				✓
Martino				
Bassett	✓			
Fisher	✓			

ATTEST:

  
Monica Orlando  
Board Secretary