

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

**FINDINGS OF FACT, CONCLUSIONS, AND RESOLUTION REGARDING THE
APPLICATION OF FINALE PARTNERS, LLC FOR MINOR SITE PLAN APPROVAL
AND VARIANCES FOR BLOCK 9, LOT 9**

The Planning Board of the Borough of Stockton, in the County of Hunterdon and State of New Jersey, upon motion of Thomas Hunt, seconded by Aaron Lipsen, adopts the following findings of fact, conclusions and resolution:

WHEREAS, Finale Partners, LLC (“Applicant”) is the owner of certain property located at 19 Bridge Street in Stockton, New Jersey and designated on the Tax Maps as Block 9, Lot 9, consisting of approximately 0.58 acres in total (the “Property”); and

WHEREAS, the Property is located in the CR Commercial-Residence District, where snack bar and retail uses are permitted pursuant to Borough Code §11.01-1 and -9; and

WHEREAS, the Property is developed with a mixed use commercial and residential building and parking lot; and

WHEREAS, the Property currently contains three (3) residential apartments; and

WHEREAS, the Property was previously operated as a farmers / retail market pursuant to Resolution 2014-04 adopted by the Stockton Borough Planning Board on April 1, 2014 (“2014 Resolution”); and

WHEREAS, the 2014 Resolution granted bulk variances for the following three pre-existing non-conformities: (i) maximum curb cut; (ii) front yard setback; and (iii) side yard setback.

WHEREAS, the Applicant applied by application dated May 17, 2023 for waiver of site plan approval to allow it to change the use of the property to a retail bakery and retail store selling prepared foods, ice cream, and home goods; and

WHEREAS, by letter dated May 23, 2023, the Board Attorney notified the Applicant that the proposed redevelopment did not meet the requirements for a waiver of site plan approval for the following reasons:

1. All of the conditions of Planning Board Resolution #2014-04, granting minor site plan approval for use of the above-referenced property as a “farmers / retail market,” were not fully addressed.
2. The use of the property as a bakery, café, and ice cream shop with retail space is significantly different than the use approved pursuant to Resolution #2014-04.

3. Many of the conditions set forth in Resolution #2014-04 are impossible to comply with or may no longer be necessary as it relates to the proposed new use.

WHEREAS, the Applicant applied by revised application dated July 12, 2023 for minor site plan approval to allow it to change the use of the property to a snack bar (i.e. retail bakery) and retail store selling prepared foods, ice cream, and home goods; and

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. July 12, 2023 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 July 5, 2023.
5. Architectural Plans, entitled "Stockton Market, Renovation Tenant Fit-Out, 19 Bridge Street, Stockton, NJ 08559," consisting of seven (7) sheets, prepared by Sullivan Building and Design Group, dated July 12, 2023.
6. Boundary and Topographic Survey of Block 9, Lot 9, prepared by Van Cleef Engineering Associates, LLC, dated July 14, 2023.

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 Memo dated July 28, 2023 from Mark Kataryniak, P.E.;
- Engineering Review Memo dated July 28, 2023 from Mark Kataryniak, P.E.;
- Planning Review Memo dated July 28, 2023 from Joanna Slagle, P.P.;

WHEREAS, the Board received a memo from Board Engineer, Mark Kataryniak, dated July 28, 2023 containing numerous completeness comments and the Board deemed the Application complete with certain waivers on August 1, 2023; and

WHEREAS, the Board secretary received proof from the Applicant that due notice had been provided for the hearing to be held on August 1, 2023, thereby conferring procedural jurisdiction over the Application; and

WHEREAS, the Board considered the Application at a duly noted public hearing on August 1, 2023; and

WHEREAS, during such hearing, 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. Anthony Rudolf (Applicant's food and beverage operations consultant)
2. Steve Grabowski (Managing Member of Applicant)
3. Brianna Kuperavage (Applicant's design expert)
4. Dana Raeshburn (One of the members of the Applicant and owner and operator of the Stockton Market)
5. Mark Kataryniak, P.E. (Board's engineering expert)
6. Joanna Slagle, P.P. (Board's planning expert)

WHEREAS, no exhibits were submitted into evidence during the hearing, and only materials submitted with the Application were referred to during the hearing; and

WHEREAS, interested parties and members of the public appeared at the hearing to cross examine witnesses and ask questions; 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 to allow Applicant to redevelop the existing commercial building space with a snack bar / retail bakery and retail space. No exterior improvements or alterations to the parking area are proposed by the Application. The portion of the existing building that will be occupied by the proposed business is 3,800 square feet with 29 existing parking spaces. The Applicant was not required to seek a design waiver or variance from parking requirements because 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."

2. **Completeness Review.** The Application was deemed complete at the August 1, 2023 Planning Board meeting.

3. **Testimony.**

a. *Anthony Rudolf (Food and Beverage Operations Consultant).*

Mr. Rudolf was qualified as an expert in the area of restaurant operations. He testified that the space would be occupied by a “grab and go café,” retail space, and small meeting room. The café will have approximately 50 seats and will serve coffee, beverages, baked goods, and other limited “to go” pre-prepared items. The retail area will sell home provisions, with one area to be a “pop-up” area to feature local artisans. The small meeting room seats about ten people. The business will be open between 7am and 5pm and will have between ten and fifteen employees, with six to seven employees on site at any one time. The bakers will arrive between 2 am and 4am each morning to begin preparing the baked goods for the day. The Applicant’s goal is to be open seven days a week, but will be starting with just Wednesday through Sunday. Deliveries will be received three to four times per week during normal business hours and will not include tractor trailers. Garbage will be picked up three times per week.

In response to Board questions, Mr. Rudolf confirmed that outdoor seating would only be provided under the existing awning in front of the building and will not encroach on to the sidewalk. Such area can accommodate approximately four (4) small tables with a total of eight (8) seats. This would bring the seating capacity for the entire business to sixty-eight (68) (50 in the café, 10 in the meeting room, 8 outdoors).

b. *Brianna Kuperavage (Applicant’s design expert).* Ms. Kuperavage testified that she is not an architect, but she aided in the preparation of the architectural plans submitted with the Application. She is a designer that operates under the supervision of a licensed architect. The Board accepted her as an expert in the area of architectural design.

She testified that the proposed development did not include any exterior work and that the unused space within the existing building will remain vacant. No changes to the setbacks or curb cuts are proposed. No new signage or landscaping is proposed.

In response to questions from Board members, she noted that the new NJDEP floodplain regulations were not taken into account during the design process and that the design does not include any floodproofing or other flood mitigation.

c. *Dana Raeshburn (Owner and Operator of the Stockton Market).* Ms. Raeshburn confirmed the operations of the site

4. **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.

testimony regarding notes and points of observation

of each witness. Witnesses of the barrie were generally commenting concerning the vibration of the barrie connection. As noted several witnesses of the barrie observed and asked questions concerning the observations of the site.

c. Bruce Kucharski (owner and operator of the dockway facility) Mr. Kucharski

testimony and corroborating of other dock investigation

witnesses were not taken into account during the design process and that the design does not in response to questions from dock members. He noted that the new INDEF corroborated

each other the proposed. He now signifies of corroborating is proposed.

the alleged space within the existing building will remain vacant. He changes to the setbacks of the building that the proposed development did not include any exterior work and that

the dock assembly per se an expert in the area of architectural design.

the vibration. He is a designer that observes under the supervision of a licensed architect.

He is not an architect but he acted in the facilitation of the architectural plans submitted with

d. William Vukobratovic (Vukobratovic & Vukobratovic, Inc. Kucharski testified that

the site, 10 in the meeting room, 8 outdoors.

(8) stated. This would bring the existing setback for the entire business to eight-feet (8') (20 in setback). Such area can accommodate approximately four (4) small tables with a total of eight

tables under the existing building in front of the building and will not encroach on to the

in response to dock questions. Mr. Kucharski confirmed that outdoor seating would only be

not include interior tables. Outdoors will be located up three times per week.

restaurants will be located three to four times per week during normal business hours and will

hour is to be open seven days a week but will be starting with just Kucharski, through Sunday.

5 and four each morning to begin facilitating the docked goods for the dock. The vibration is

employees with six to seven employees on site at any one time. The docks will make between

the business will be open between 7am and 7pm and will make between 10am and 11pm.

to be a "pop-up" area to remain open anytime. The small meeting room seven from ten people

other method to be "pre-arranged" rooms. The total area will still have violations with one area

The site will have approximately 20 seats and will serve outdoor seating of packed goods and

that the space would be occupied by a "bar" and 60 seats, total space and small meeting room.

Mr. Kucharski was identified as an expert in the area of commercial observations. He testified

e. Anthony Kucharski (owner and operator of the dockway facility) Kucharski

regarding dock assembly

f. Conclusions Regarding the vibration was deemed complete at the August 1, 2017.

5. **Review by Board's Professionals.** The Board received an Engineering Review Memo from Mr. Kataryniak and a Planning Review Memo from Ms. Slagle. A copy of these review memos are attached to and made part of this Resolution. Both of the review memos were reviewed at the public hearings with Applicant's experts.

6. **Board Member Discussion.** As noted above, Board Members asked questions of the witnesses presented.

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.

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

As set forth above, Applicant has requested that three (3) "c(1)" variances be confirmed by the Board:

- Front yard setback where 25 feet is required, and 4.3 feet exists. (Borough Code §11.04-6).
- Side yard setback where 5 feet is required and 0.7 feet exists with a required combined 30% of the lot width required, and 16% exists. (Borough Code §11.04-7).
- Maximum curb cut where 25% of lot width is permitted and 100% exists on Bridge Street and 40% on Railroad Avenue exists. (Borough Code §11.04-3).

Such variances were granted by the Board and memorialized in the 2014 Resolution. 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 snack bar / retail bakery and retail space 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 snack bar / retail bakery and retail space 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

intent and purpose of the zoning ordinance and master plan to an extent the ordinance is not a zoning ordinance and master plan. While granting the variance to allow the redevelopment within the parkway and retail space without superseding intent of the intent and purpose of the zoning ordinance, the variance can be granted to allow the redevelopment of the property as a mixed retail town

(3) As to the second prong of the negative criteria the Board finds that the

Board:

property as a mixed retail town parkway and retail space without superseding intent of the Board finds that the (3) variance can be granted to allow the proposed redevelopment of the property below and proposed and consistent with business to the findings set forth above the

(4) As to the third prong of the negative criteria provided that the conditions

findings as to the negative criteria of the (3) variance are as follows:

(a) Variance as to the Negative Criteria of the (3) variance: The Board's

property:

ordinances will result in an undue hardship as result of the strict and existing conditions of the plan application has satisfied its burden of demonstrating that the strict application of the zoning

(b) Findings as to the Positive Criteria of the (3) variance: The Board finds

Board's findings as to the positive and negative criteria of these (3) variance are as follows:

Such variance was granted by the Board and memorialized in the 2014 Resolution. The

and 40% on Railroad Avenue exists. (Paragraph Code §11-04-1)

- Maximum curb cut where 25% of lot width is permitted and 10% exists on Bridge Street 30% of the lot width permitted and 10% exists. (Paragraph Code §11-04-1)
- Side yard setback where 2 feet is required and 0 feet exists with a required minimum of 0 feet
- Front yard setback where 25 feet is required and 10 feet exists. (Paragraph Code §11-04-1)

Board:

As set forth above applicant has requested that these (3) (3) variance be considered by the

A. The (3) Variance:

in front of the property

submission of Mr. Karamanik and Mr. Stigler the commission made in the findings and conditions applicant agreed to address by changes to the site plan or otherwise as needed to the

variances be denied

(c) Board Member Discussion: As noted above, Board Member asked questions of the

related in the public meeting with applicant's concerns:

minutes are attached to and made part of this Resolution. Four of the seven items were from Mr. Karamanik and a Planning Review Memo from Mr. Stigler. A copy of these items

(d) Review by Board's Professionals: The Board received an engineering Review Memo

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).

8. **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

specific piece of property, or the significant (a) (ii)ly existing presence, the strict application of any piece of property, or (c) by reason of exceptional and exceptional situation outside affecting a reason of exceptional totality conditions or by reason of times outside affecting a specific by reason of exceptional totality conditions, or by reason of a specific piece of property, (p) or p/ given (c) (1), or so-called "prohibited" conditions, pursuant to 44 USC 4022D(c)(1) where (a) a "discovery" for (a) (ii)ly existing (a) (ii)ly existing. The Board has the power to

3. “(D) Discovery.” The Board's conditions as to the (a) (ii) conditions are as follows:

for a person being proposed and combined with conditions that under the law approval can and should be granted subject to the conditions set that the conditions set for a person are proposed and combined with. As such, the Board substantially improving the intent and purpose of the matter, but not having sufficient, provided approval can be granted without sufficient information to the public good and without appropriate ordinance provisions. As to the positive criteria, the Board found that under the law proposed and combined with the proposed development and the law being with comply with all applicable applied for conditions under and provided that the conditions set for a person are including the Board found that other than those having ordinance regulations from which (p) "Conclusions as to (a) (ii)ly existing (a) (ii)ly existing. As for other areas in the section

exceptions or conditions or if the Board proposes conditions regarding set forth of the Board comply with all applicable ordinance provisions, approval may be granted, unless the Board finds granted if the Board comply with all applicable ordinance provisions. If the proposed development does not standards for approval of under the law approval. The statute states that approval can be (a) "Conclusions as to (a) (ii)ly existing (a) (ii)ly existing. 44 USC 4022D-401 sets forth the

4. Minor Site Plan Review.

CONCLUSIONS

the negative criteria of the (a) (ii) conditions herein its specific findings set forth above in respect of the first and second prongs of (p) As to the negative criteria of the law review, the Board reports as it fully set forth the law ordinance requirements: respects with all remaining applicable ordinance regulations and all applicable Board finds that the proposed development and the law being with comply in all provided that the conditions set for a person are proposed and combined with the regulations set forth above from which applicable applied for conditions under and (a) As to the positive criteria of the law review, other than the having ordinance

been requested. The Board's findings as to the law review are as follows:

5. Minor Site Plan Review. Finally, as set forth above, under the law approval also

approval increasing regulations concerning public safety, or set of ordinance) substantial improvement upon proposed against the persons having (a) an application use of the law

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 Mantin Group v. Township of Randolph, 137 N.J. 216, 232-233 (1994).

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED, that Applicant, Finale Partners, 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 / reconfirmed to allow a 4.3 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 / reconfirmed to allow a 0.7 foot side yard setback where 5 feet is required and a combined 16% of the lot width 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 Maximum Curb Cut Regulations.** Subject to the conditions set forth below, a “c(1)” variance is granted to allow a maximum curb cut of 100% of the lot width along Bridge Street and 40% of the lot width along Railroad Avenue where 25% of lot width is permitted pursuant to Borough Code §11.04-3.
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 July 28, 2023 from Mark Kataryniak, P.E.;
- Planning Review Memo dated July 28, 2023 from Joanna Slagle, P.P.;

B. Applicant shall submit a fully engineered site plan that includes the following information, to be reviewed and approved by the Board Engineer prior to Applicant’s receipt of a certificate of occupancy.

- Addressing all comments set forth in the July 28, 2023 Engineering Review Memo.
- A truck turnaround exhibit showing how the largest anticipated delivery truck will navigate the site,.
- A lighting plan that complies with all applicable Borough ordinances.
- Noting the proposed outdoor dining area in compliance with Condition F below.

C. Revise the as-built survey drawing to note which area of the existing building will be occupied by the proposed retail bakery and retail space and associated storage. Such revised survey shall be provided to the Board Engineer for review and approval prior to Applicant’s receipt of a certificate of occupancy.

D. Applicant shall comply with N.J.A.C. 7:29-1.1 *et seq.* with regard to noise levels.

E. Any changes to the use of the Property will require the Applicant to apply for amended or new site plan approval. Such changes shall include, but not be limited to the following:

- Adding additional uses to
- Changing the use
- Changing the amount of space occupied by the retail bakery and retail space

- Changing the amount of space occupied by the retail parking and retail areas
- Changing the use
- Adding additional uses to

following:

amended or new site plan approved. Such changes shall include, but not be limited to the

- E. Any changes to the use of the property shall require the Applicant to apply for
- F. Applicant shall comply with 22.07.020 (2)(a)-(c) as well as the need to provide the

description of a certificate of occupancy:

survey shall be provided to the Board Engineer for review and approval prior to Applicant's

be occupied by the proposed retail parking and retail areas and associated structures. Such revised

- C. Revises the as-built survey drawing to show which area of the existing building will
- Meeting the proposed outdoor dining area in compliance with Condition 1 below.
- A revised plan that complies with all applicable Borough ordinances regarding the site.
- A truck unloading exhibit showing how the subject anticipated delivery truck will
- Addressing all comments set forth in the July 28, 2022 Engineering Review Memo

certificate of occupancy:

information to be reviewed and approved by the Board Engineer prior to Applicant's receipt of a

- B. Applicant shall submit a fully engineered site plan that includes the following:
- Planning Review Memo dated July 28, 2022 from Thomas Wright, P.E.
- Engineering Review Memo dated July 28, 2022 from Mark Krasa, P.E., R.T.

Comments set forth in the following Review Memos (copies attached:

Planner, changing and adding to the site plan and other documents where necessary, and

- A. Applicant shall address to the satisfaction of the Board Engineer and Board

proposed improvements subject to the conditions set forth below:

BE IT RESOLVED FURTHER, that the Applicant is granted site plan approval for the

approval is granted to the site plans referenced above:

- 1. **Minor Site Plan Approval** subject to the conditions set forth below, unless the plan

which is permitted pursuant to Borough Code 21.06.02.

Engineering Review Memo dated July 28, 2022 from Thomas Wright, P.E., dated July 28, 2022 from Mark Krasa, P.E., R.T., and the Board Engineer is granted to allow a maximum coverage of 10% of the lot

- 2. **Major Site Plan Approval** from the Maximum Coverage Regulations subject to the conditions

- Expanding the area occupied by the proposed snack bar / retail bakery and retail space
- Expanding the retail baker and retail use into the area of the building currently proposed only for storage.
- Increasing the seating capacity

F. Outdoor dining shall be permitted on the Property, provided that all such tables and chairs remain on the Property and do not encroach on to the public sidewalk. Such outdoor dining area will be limited to eight (8) seats. Such outdoor dining area will be delineated on the as-built survey and architectural plans.

G. 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.

H. Prior to Applicant's receipt of 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.

I. Prior to Applicant's receipt of a certificate of occupancy, Applicant shall obtain a Floodplain Development Permit from the Borough of Stockton.

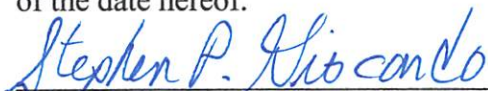
J. Applicant shall execute a Developer's Agreement in a form acceptable to the Borough Attorney and approved by the governing body prior to the issuance of a building permit or certificate of occupancy to the Applicant.

K. 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.

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

M. 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.

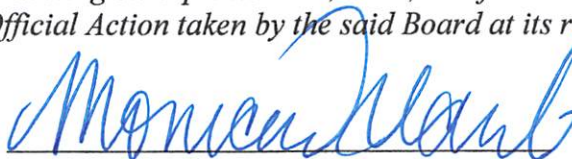


Stephen Giocondo, Chairman



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 special meeting on September 20, 2023, and further certify that same is a true memorialization of the Official Action taken by the said Board at its regular meeting on August 1, 2023.



Monica Orlando, Secretary

THOSE IN FAVOR: Bassett, Hunt, Lipsen, Meltzer, Giocondo

THOSE OPPOSED:

The above memorializing resolution was adopted on September 5, 2023 by the following vote of eligible Board members:

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

ATTEST:


Monica Orlando
Board Secretary