

**RESOLUTION NO. 2021-008  
PILES GROVE TOWNSHIP PLANNING BOARD  
RESOLUTION MEMORIALIZING THE GRANT  
OF A MINOR SUBDIVISION WITH A BULK VARIANCE AND CONDITIONAL USE  
VARIANCE,  
SUBJECT TO CERTAIN CONDITIONS, TO  
APPLICATION NO. 2020-005  
843 ROUTE 40, LLC  
(BLOCK 25, LOTS 11.01 & 12)**

**Approved: December 16, 2021**

**Memorialized: March 17, 2021**

**WHEREAS**, an Application was filed by 843 Route 40, LLC (Applicant), whose mailing address is 1233 Haddonfield-Berlin Road, Suite 8, Voorhees, NJ 08043, by and through its attorney David DeClement, Esquire whose address is 221 Grandview Avenue, Pitman, New Jersey 08071 for a Minor Subdivision with a Conditional Use Variance permitting the continued use of the Gasoline Station on property known as Block 25, Lots 11.01 & 12 on the Pilesgrove Township Tax Map and more commonly referred to as 843 Route 40 & 25 Robinson Road, Pilesgrove, NJ 08098 (Property) being located within the NC – Neighborhood Commercial Zoning District. The improvements being depicted on a certain concept plan entitled: Preliminary and Final Major Site Plan Set, prepared by Peterman Maxcy Associates, LLC dated 10/29/19 and consisting of nine (9) sheets; and,

**WHEREAS**, James H. McKelvie, P.E., CME, the Pilesgrove Township Planning Board Engineer (Board Engineer), having reviewed the Application rendered a completeness letter thereon dated March 17, 2020 (Completeness Engineer's Letter); and thereafter having reviewed the application rendered a Technical Review Letter thereon dated July 13, 2020 (Engineer's Letter); and

**WHEREAS**, Kevin D. Rigs, P.P. AICP, the Pilesgrove Township Planning Board Planner (Board Planner), having reviewed the Application rendered a Planner Report Letter thereon dated April 20, 2020 (Planner Review Letter); and,

**WHEREAS**, the Application was deemed complete by the Board on December 16, 2020 at the regular scheduled meeting of the Pilesgrove Township Planning Board; and

**WHEREAS**, notice to the public was required in accordance with the Township Ordinance and the Municipal Land Use Law (MLUL); and

**WHEREAS**, there is currently a pandemic caused by the novel virus COVID-19 which has caused the Governor of the State of New Jersey to issue various quarantine executive orders; and

**WHEREAS**, a result of these orders public gatherings is not permitted at the time this meeting was held, as such the Planning Board meeting was required to be conducted virtually.

**WHEREAS**, the Planning Board through the excellent work of the Secretary coordinated a virtual meeting through the program, Go To Meeting; and

**WHEREAS**, the Planning Board issued its own notice to the public prior to the meeting that the meeting would be held virtually with the instructions of how to call into the meeting; and

**WHEREAS**, additionally, the Applicant provided notice to the public in accordance with the applicable MLUL and Township Ordinance informing them that the meeting would be held virtually along with providing instructions on how to call in.

**WHEREAS**, the Application was posted on the Township website for review and use by interested public; and

**WHEREAS**, the Board determined it had jurisdiction to hear the Application and proceeded with a public hearing on the Application at the regular meeting of the Pilesgrove Township Planning Board, convened on December 16, 2020; and

**WHEREAS**, the Board heard testimony from a representative of the applicant, Brian S. Peterman, PE, CME, engineer for the Applicant and representations made by David DeClement, Esquire, attorney for Applicant; and

**WHEREAS**, after hearing the above testimony and representation, the Board made the following findings of fact:

1. The property is in an NC – Neighborhood Commercial Zoning District as designated on the Township Zoning Map.
2. The concerned properties are Block 25, Lots 11.01 & 12.
3. Lot 12 consist of 0.49 acres in size and contains a Sunoco Service Station, including a one (1) story building, fuel pumps with a canopy, parking area and

fuel tanks.

4. Lot 12 has two (2) entrances to the property from Harding Highway, US Route 40 and one (1) entrance from Kings Highway, County Route 620.
5. Lot 11.02 consist of 2.32 acres in size and contains a former bank building, parking area, an entrance to the property from Harding Highway, US Route 40 and Robinson Road and a bituminous drive aisle providing access from Kings Highway, County Route 620 to the rear of the Sunoco Service Station.
6. While the Applicant initially requested a Lot line adjustment between the two lots, a conditional use variance and a preliminary and major site plan for the addition of a new diesel fuel island, the applicant decided to only move forward with the lot line adjustment (minor subdivision) and the conditional use variance for the pre-existing gasoline station.
7. As it relates to the minor subdivision the Applicant is proposing to adjust the lot line of Lots 11.01 and 12 such that Lot 12 is enlarged to 1.46 acres and Lot 11.01 is reduced to 1.35 acres.
8. The lot line adjustment as proposed creates the need for a bulk variance on Lot 11.01 for the parking lot now being less than 10 ft from the property line. Section 145-20F(6) requires that the first ten (10) feet from the property line be planted and maintained as lawn area or ground cover and landscaped with evergreen shrubbery.
9. As it relates to said Bulk Variance the Applicant testified to the following:
  - a. **Positive:** The purpose of the MLUL would be advanced by this deviation from the zoning ordinance and the benefits from this deviation outweigh any detriment to the public good.
  - b. **Negative:** The proposed parking lot being 10 ft from the property line, as proposed, would not be a substantial detriment to the public good and it will not substantially impair the intent and purpose of the zone plan or ordinance.
10. As it relates to the existing use of a Gasoline Station (Service Station as defined in Section 145-8 of the Township Zoning Ordinance), such use is an approved

conditional use in the concerned zoning district, subject to a number of conditions.

11. While the use is pre-existing, the addition of the new land requires the approval of the continued use as a Service Station, as proposed.
12. Section 145-39.K of the Township Zoning Ordinance provides for the various conditions that must be met for the approval of the Service Station as a conditional use.
13. As a result of the proposed continued use of the Service Station not meeting all of the conditional use requirements the Applicant needs a conditional use variance approval (d(3) use variance) for continued Service Station use, as proposed.
14. For the granting of the D3 Conditional Use Variance the Applicant must show:
  - a. **Positive Criteria:** The development of the site is particularly suited for the proposed use.
  - b. **Negative Criteria:** The Conditional Use Variance cannot be granted without showing that such a variance can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the Zoning Ordinance.
15. As it relates to the Conditional Use Variance requested together with the Applicant's submission, the Applicant testified to the following regarding the Positive and Negative Criteria:
  - a. **Positive Criteria:** The Applicant testified that the Service Station is particularly suited for the property as it is a pre-existing use.
  - b. **Negative Criteria:** The proposed use can be granted without substantial detriment to the public good as it is a pre-existing use. Additionally, it will not impair the intent and purpose of the Zoning Ordinance.
16. No member of the public appeared and spoke on the Application.
17. The Board Next reviewed the Engineer Review Letter and Planner Review Letter. The Applicant agreed to comply with all the comments and requirements contained in the letters, subject to the engineer's and planner's approval.

**BE IT THEREFORE RESOLVED** on this \_\_\_\_\_ day of \_\_\_\_\_, 2021 by the Pilesgrove Township Planning Board, the Minor Subdivision, Bulk Variance and Conditional Use Variance and waivers as further depicted on the plans submitted is granted, and is subject to the following conditions:

1. The Applicant must return to the Planning Board for Site Plan Approval.
2. Payment of any and all required fees which are due or may become due to the Township within seven (7) day notice thereof, including but not limited to, settlement of any outstanding review escrow accounts.
3. The minor subdivision shall be filed by deeds in the Office of the Clerk of Salem County. The deeds shall be approved by the Board solicitor and shall contain legal descriptions that have been approved by the Board Engineer. The deeds shall be recorded not later than 190 days from the date of the adoption of the within resolution.
4. Any and all conditions of approval detailed in the technical engineer's and planner's review letter, subject to the planner's and engineer's approval.
5. Obtaining any and all other approvals for the proposed revisions that may be required by any governmental/regulatory body including, but not limited to, the New Jersey Department of Environmental Protection pursuant to the Freshwater Wetlands Act, the Salem County Planning Board and/or the Salem County Soil Conservation District, New Jersey Department of Transportation, etc. Applicant's engineer shall certify that said approvals have been received.

**BE IT FURTHER RESOLVED**, that in the event the above conditions are not satisfied within two (2) years from the date of the grant of approval, the relief granted herein shall be denied retroactively to said approval date.

**BE IT FINALLY RESOLVED** that the Applicant is hereby placed on notice that:

1. If he or his successors intend or desire to engage in a regulated activity upon the property as defined in N.J.S.A. 13:9B-3; and, if required, a Freshwater Wetlands Permit or exemption therefrom must be obtained.

2. Applicant shall comply with all representations made during the course of the hearing and in all filed documents.

3. Applicant shall indemnify and hold the Board harmless from any claim of any kind which may be made as a result of any deficiency in the Application, including any challenges to the notice requirements of the MLUL and Township Ordinance.

4. Any additional site improvements or modifications to the approved plan require approval from the Pilesgrove Planning Board.

**PILESGROVE TOWNSHIP PLANNING BOARD**

**BY:** \_\_\_\_\_

**JEFFREY STRING, Chairperson**

**ATTEST:**

\_\_\_\_\_

**RITA SHADE, Secretary**

## ACKNOWLEDGMENT

I, \_\_\_\_\_, hereby certify I reviewed the within Resolution, and realize the Board has relied upon my representations as an essential element in granting this approval. I acknowledge I have the absolute right to request the rescission of this approval within 45 days of the adoption of the Resolution, subject to payment of any and all fees associated therewith. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: \_\_\_\_\_

<https://dinicola.sharepoint.com/sites/server/Shared Documents/My Documents/CLIENT FILES - PILESGROVE PLANNING BOARD/843 Route 40, LLC/Resolution 20-005.docxq>