

**RESOLUTION NO. 2021-014
PIESGROVE TOWNSHIP PLANNING BOARD
RESOLUTION MEMORIALIZING THE GRANT
OF MINOR SITE PLAN APPROVAL WITH A USE VARIANCE
SUBJECT TO CERTAIN CONDITIONS, TO
APPLICATION NO. 2021-001
TRACTOR SUPPLY COMPANY
(BLOCK 65, LOT 3)**

**Approved: February 17, 2020
Memorialized: March 17, 2021**

WHEREAS, an Application was filed by Tractor Supply Company (Applicant), whose mailing address is 5401 Virginia Way, Brentwood, TN 37027, through their attorney, Laura M. D'Allesandro, Esquire with an address of 21 E. Euclid Avenue, Suite 100, Haddonfield, New Jersey 08033 for minor site plan approval with a use variance for property known as Block 65, Lot 3 on the Pilesgrove Township Tax Map and more commonly referred to as 862 NJ-45, Pilesgrove, NJ 08098 (Property) being located within the HC-2 Highway Commercial Zoning District. The improvements being depicted on a certain plan entitled: Minor Site Plan Set prepared by Dynamic Engineering Consultants, P.C. whose mailing address is 8 Robin Street, Suite 102, Toms River, NJ 08753 dated November 23, 2020 consisting of three (3) 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 January 18, 2021 (Completeness Engineer's Letter) and an Engineer's Report Letter thereon dated February 12, 2021 (Technical Review Letter); and,

WHEREAS, the Application was deemed complete by the Board on January 20, 2021 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 and social distancing executive orders; and

WHEREAS, a result of these orders public gatherings are not permitted at the

time this meeting was held, as such the Planning Board meeting was required to be conducted virtually; and

WHEREAS, the Planning Board through the excellent work of the secretary, coordinated a virtual meeting through the program Go To Meetings; and

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

WHEREAS, the Applicant provided notice in accordance with applicable MLUL and Township Ordinance, in which it was indicated that the Planning Board Meeting would be held virtually, providing all required call-in information for the public's use; and

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

WHEREAS, additionally the Applicant was required to provide paper copies of all application documents to any member of the public as requested; and

WHEREAS, the Board determined that it had jurisdiction to hear the Application and proceed with a public hearing on the Application on the regular meeting of the Pilesgrove Township Planning Board convened on February 17, 2021; and

WHEREAS, the Board heard testimony from the Applicant's Planner and Engineer, Joshua M. Sewald and representations made by Laura M. D'Allesandro, 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 HC-2 Highway Commercial Zoning District as designated on the Township Zoning Map.
2. The Property is approximately 5.76 acres in size and is located on the southeast side of NJ Route 45 and US Route 40.
3. The Property currently consists of a 22,670 sq ft Tractor Supply retail store, 24,465 sq ft concrete surfaced fenced outdoor display area, bituminous drives and parking area, concrete sidewalks, permanent display areas, rear loading platform, rear trash enclosure, landscaped parking area reserved for future parking needs and stormwater management area.

4. The Applicant is proposing to add the use of retail sales of propane gas to customers from a 1,000-gallon propane tank.
5. The propane tank will be located within the existing fenced outdoor display area on the west side of the existing building.
6. The proposed propane tank will be surrounded on all sides by (22) 4' high (steel pipe set in concrete) bollards, spaced evenly around the tank.
7. The propane tank will be utilized for retail sales of propane gas to the general public.
8. The operation shall require 2-3 delivery trucks of bulk propane per month.
9. The propane sales shall operate during the current normal business hours of the Tractor Supply Store.
10. The retail sales of propane gas is not permitted in the related zoning district and therefore the Applicant requires a Use Variance.
11. For the granting of the Use Variance the Applicant's Planner and Engineer testified to the following regarding the positive and negative criteria:
 - a. **Positive Criteria:** The site is particularly suitable for the proposed use of the retail sale of propane and the proposed use will complement the existing retail store use.
 - b. **Negative Criteria:** The variance can be granted without a substantial detriment to the public good nor result in any material adverse impact on any neighbors. Additionally, the variance will not substantially impair the intent and purpose of the zone plan or zoning ordinance.
12. No member of the public appeared and spoke on the Application.
13. The Board Next reviewed the Engineer Review Letter. The Applicant agreed to comply with all the comments and requirements contained in the letters, subject to the Engineer's approval.

BE IT THEREFORE RESOLVED on this ____ day of _____, 2021 by the Pilesgrove Township Planning Board, the Minor Site Plan, Use Variance and waivers as requested, as further depicted on the plans submitted is granted and is subject to the following conditions:

1. Payment of any and all required fees which are due or may become due to the Township within seven (7) days notice thereof, including but not limited to, settlement of any outstanding review escrow accounts.

2. Any and all conditions of approval detailed in the Technical Engineer's letter is subject to the Engineer's approval.

3. 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. In the event the development requires the disturbance of more than 5,000 square feet of property, approval of a plan for soil erosion and sediment control may be required from the Salem County Soil Conservation District; and if so, no Certificate of Occupancy will issue until the plan is implemented.

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

4. 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.

5. During construction, Applicant shall correct any condition causing erosion or any other deleterious effect upon the community within three (3) days notice, or any lesser time deemed required, from or by the Township Engineer.

6. Applicant shall be responsible for locating the improvements in accordance with the Ordinance and/or this Resolution. Same may require the retention of a professional land surveyor, engineer, etc. to ensure compliance with the Ordinance. Applicant expressly understands that the Township shall not be responsible for locating the improvements and if same are not in compliance with the Ordinance and/or this Resolution, Applicant shall be obligated to remove said non-conforming improvements and relocate them in accordance with the Zoning Requirements and/or this Resolution.

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

8. The Applicant shall comply with all Township and MLUL bonding requirements.

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: _____

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