

BERNARDS TOWNSHIP **ZONING BOARD OF ADJUSTMENT**

MINUTES v2
Regular Meeting
May 5, 2021

CALL TO ORDER

Chairman Breslin called the meeting to order at 7:34 PM.

FLAG SALUTE

OPEN PUBLIC MEETINGS STATEMENT – Chairman Breslin read the following statement:

“In accordance with the requirements of the Open Public Meetings Law, notice of this meeting of the Board of Adjustment of the Township of Bernards was posted on the bulletin Board in the reception hall of the Municipal Building, Collyer Lane, Basking Ridge, New Jersey, was sent to the Bernardsville News, Whippany, NJ, and the Courier News, Bridgewater, NJ, and was filed with the Township Clerk, all on January 7, 2021 and was electronically mailed to all those people who have requested individual notice.

The following procedure has been adopted by the Bernards Township Board of Adjustment. There will be no new cases heard after 10:00 PM and no new witnesses or testimony heard after 10:30 PM.

ROLL CALL:

Members Present: Baumann, Breslin, Cambria, Genirs, Kraus, Pochtar, Tancredi
Members Absent: Agarwal, Pavlosky
Also Present: Board Attorney, Steven K. Warner, Esq.; Township/Board Planner, David Schley, PP, AICP;
 Board Engineer, Thomas Quinn, PE, CME; Board Secretary, Cyndi Kiefer

On motion by Mr. Tancredi, seconded by Mr. Kraus, all in favor and carried, the absence of Mr. Pavlosky was excused.

APPROVAL OF MINUTES

April 7, 2021 – Regular Session – On motion by Ms. Pochtar, seconded by Ms. Baumann, all eligible in favor and carried, the minutes were adopted as drafted.

APPROVAL OF RESOLUTIONS

[Verizon Corporate Services Group Inc.](#); Block 803, Lots 2, 3, 5, 6, 23; 300 North Maple Avenue; ZB21-001 (approved) – Mr. Tancredi moved approval of the resolution as drafted. Mr. Cambria seconded.

Roll call: Aye: Baumann, Cambria, Genirs, Kraus, Pochtar, Tancredi
 Nay: NONE
 Abstain: Breslin (recused)

Motion carried.

COMPLETENESS AND PUBLIC HEARING

Naulty, David & Carrie; Block 6303, Lot 16; 1 Pin Oak Court; Bulk Variance; ZB21-012

Mr. Warner advised that the Applicants had failed to serve notice to the utilities and fire company listed on the 200-Foot Property Owners List, hence the Board *did not* have jurisdiction to hear the application. In order to preserve the published notice and the notices that had been correctly served, the application was carried to the 06/17/2021 meeting *pending* timely service to those entities which were overlooked when the Applicant originally served notice.

COMPLETENESS AND PUBLIC HEARING

Vial, Louis & Nellie; Block 2004, Lot 2; 10 Brook Avenue; Bulk Variance; ZB21-008

Present: Louis and Nellie Vial, Applicants

Mr. Warner stated that notice was sufficient and timely therefore the Board had jurisdiction to hear this application. Mr. & Mrs. Vial, Mr. Quinn and Mr. Schley were duly sworn.

Nellie Vial, Applicant residing at 10 Brook Avenue, stated that the proposed project, replacing an existing open rear deck with a partially covered deck and a built-in spa, requires relief for the location of the spa which, by ordinance is considered a swimming pool and must be located behind the rear building line of existing residential structures on adjoining lots. In order to comply, the spa would have to be located to the north, behind the driveway on the subject property, and would be much closer to the house on adjoining Lot 1. Adding that the spa would be less visible if built into the new deck and protected from view from Lot 1 by an existing row of trees, she felt that the proposed location represents a better planning alternative. Finally, she stated that the existing shed would remain and that no trees would be removed.

Mrs. Vial testified that she had taken the pictures submitted with the application and that they accurately depict the property as it currently exists. She also stated that the owner of Lot 1 did not voice any concerns about the project.

Mrs. Vial stipulated to the comments made in Mr. Schley’s memo dated 04/23/2021, Mr. Quinn’s memo dated 05/03/2021 and the Environmental Commission’s memo dated 03/26/2021.

Hearing no further questions from the Board or its staff, Chairman Breslin opened the hearing to questions or comments from the public either present or via telephone. Hearing none, that portion of the meeting was closed.

After deliberating, the Board concluded that the Applicants had satisfied the positive and negative criteria required for both a "c(1)" or "hardship" variance and a "c(2)" or "benefits vs. detriments" variance. Mr. Tancredi moved to deem the application complete and to direct the Board Attorney to draft a resolution memorializing the Board's decision to grant the application for variance relief requested by the Applicants subject to the conditions stipulated to by the Applicants and as stated during deliberations. Mr. Cambria seconded.

Roll call: Aye: Baumann, Breslin, Cambria, Genirs, Kraus, Pochtar, Tancredi
 Nay: NONE

Motion carried.

COMPLETENESS AND PUBLIC HEARING

Simao, Salvador & Sofia; Block 4301, Lot 67.02; 20 Canoe Brook Lane; Bulk Variance; ZB21-009

Present: Salvador and Sofia Simao, Applicants

Mr. Warner stated that notice was sufficient and timely therefore the Board had jurisdiction to hear this application. Mr. & Mrs. Simao, Mr. Quinn and Mr. Schley were duly sworn.

Salvador Simao, Applicant residing at 20 Canoe Brook Lane, stated that the proposed project, construction of an in-ground pool with a spa and patio all to the rear of the existing dwelling, requires relief for the location of the pool which, by ordinance, must be located behind the rear building line of existing residential structures on adjoining lots. Due to extensive wetlands on adjoining Lot 67.01 (40 Canoe Brook Lane), the dwelling on that property had to be constructed further back than most of the dwellings in the neighborhood. Mr. Simao testified that because of that and the extensive wetlands on his own property, no conforming location for the pool exists.

Mr. Simao stated even though there is a significant amount of vegetative buffering between his house and the house on Lot 67.01, he planned to provide additional landscaping to ensure that there is adequate screening. He stated that the owner of that property had no concerns about the proposal.

A discussion ensued about the use of a rain garden as opposed to a drywell system to mitigate the effect of the proposed additional impervious coverage and Mr. Quinn opined that rain gardens represent an acceptable remedy for managing stormwater runoff especially in situations such as this where there is possibly a high water table.

Mrs. Simao confirmed that she had taken the photos submitted with the application and that they accurately depict the property as it currently exists. Both Applicants stipulated to the comments made in Mr. Schley’s memo dated 04/23/2021, Mr. Quinn’s memo dated 05/03/2021 and the Environmental Commission’s memo dated 03/26/2021.

Hearing no further questions from the Board or its staff, Chairman Breslin opened the hearing to questions or comments from the public either present or via telephone. Hearing none, that portion of the meeting was closed.

After deliberating, the Board concluded that the Applicants had satisfied the positive and negative criteria required for a "c(1)" or "hardship" variance. Ms. Genirs moved to deem the application complete and to direct the Board Attorney to draft a resolution memorializing the Board's decision to grant the application for variance relief requested by the Applicants subject to the conditions stipulated to by the Applicants and as stated during deliberations. Ms. Pochtar seconded.

Roll call: Aye: Baumann, Breslin, Cambria, Genirs, Kraus, Pochtar, Tancredi
 Nay: NONE

Motion carried.

COMPLETENESS AND PUBLIC HEARING

Sefchovich, P./Bonilla, T.; Block 4802, Lot 1.03; 91 Queen Anne Drive; Bulk Variance; ZB21-010

Present: Phil J. Sefchovich, Applicant

Mr. Warner stated that notice was sufficient and timely therefore the Board had jurisdiction to hear this application. Mr. Sefchovich, Mr. Quinn and Mr. Schley were duly sworn.

Phil J. Sefchovich, Applicant residing at 91 Queen Anne Drive, stated that the proposed project, construction of a patio, pergola, fireplace, firepit and spa, requires relief for the location of the spa which, by ordinance is considered a swimming pool and must be located behind the rear building line of existing residential structures on adjoining lots. He testified that, in the proposed location, the view of the spa is blocked in its entirety from adjacent Lot 2 (85 Queen Anne Drive) by the house on the subject property. Because of the location of the dwelling on Lot 2 and also because the subject property is constrained by conservation easements that occupy the majority of the rear yard, the only conforming location for the pool would be in a wooded area adjacent to the conservation easement boundary and it would then be visible to Lot 2. In addition, an existing row of trees would block the view of the spa from the Applicant’s house which represents a safety issue hence, he felt that the proposed location represents a better planning alternative.

Mr. Sefchovich stipulated to the comments made in Mr. Schley’s memo dated 04/23/2021, Mr. Quinn’s memo dated 05/03/2021 and the Environmental Commission’s memo dated 04/28/2021.

Hearing no further questions from the Board or its staff, Chairman Breslin opened the hearing to questions or comments from the public either present or via telephone. Hearing none, that portion of the meeting was closed.

After deliberating, the Board concluded that the Applicant had satisfied the positive and negative criteria required for both a "c(1)" or "hardship" variance or a "c(2)" and "benefits vs. detriments" variance. Ms. Pochtar moved to deem the application complete and to direct the Board Attorney to draft a resolution memorializing the Board's decision to grant the application for variance relief requested by the Applicant subject to the conditions stipulated to by the Applicant and as stated during deliberations. Mr. Cambria seconded.

Roll call: Aye: Baumann, Breslin, Cambria, Genirs, Kraus, Pochtar, Tancredi
 Nay: NONE

Motion carried.

COMPLETENESS AND PUBLIC HEARING

Lesnik, Howard & Keri; Block 1803, Lot 1; 6 Cedar Street; Bulk Variance; ZB21-011

Present: Howard and Keri Lesnik, Applicants

David J. Egarian, PE, Engineer for the Applicant

Mr. Warner stated that notice was sufficient and timely therefore the Board had jurisdiction to hear this application. Mr. and Mrs. Lesnik, Mr. Egarian, Mr. Quinn and Mr. Schley were duly sworn.

Howard Lesnik, Applicant residing at 6 Cedar Street, stated that the proposed project, construction of an inground pool and patio to the rear of the existing dwelling, requires relief for the location of the pool which, by ordinance, must be located behind the rear building line of existing residential structures on adjoining lots. Mr. Lesnik stated that if the pool were to be constructed in a conforming location, six (6) mature trees would have to be removed which would make it more visible to the neighbors. Also, it would be farther from his home constituting a safety issue since he has small children. In addition, placement of the pool in a conforming location would bring it closer to either the dwelling on Lot 13 or the dwelling on Lot 2, depending on the exact placement, hence he felt that the proposed location represents a better planning alternative.

Mr. Lesnik testified that adequate screening is provided for the adjacent lots by the existing vegetation and an existing 6-foot solid fence. Although he testified that he has no intention of removing the existing fence, he stipulated to replacing it with equivalent screening, either natural or with new fencing, should his plans change. Finally, he added that he had spoken to the neighbors, some of whom already had pools, and all were in favor of the project.

David J. Egarian, PE, engineer with the firm of *DJ Egarian & Associates Inc.*, Fairfield, NJ, was accepted by the Board as an expert in the field of civil engineering. He provided testimony concerning the proposed removal of a portion of the existing driveway, patio and walkway to help mitigate the increase in impervious coverage from the new pool and patio.

Both Applicants stipulated to the comments made in Mr. Schley’s memo dated 04/23/2021, Mr. Quinn’s memo dated 05/03/2021 and the Environmental Commission’s memo dated 04/28/2021, noting that the comments in the latter were informative in nature.

Hearing no further questions from the Board or its staff, Chairman Breslin opened the hearing to questions or comments from the public either present or via telephone. Hearing none, that portion of the meeting was closed.

After deliberating, the Board concluded that the Applicants had satisfied the positive and negative criteria required for both a "c(1)" or "hardship" variance or "c(2)" and "benefits vs. detriments" variance. Mr. Tancredi moved to deem the application complete and to direct the Board Attorney to draft a resolution memorializing the Board's decision to grant the application for variance relief requested by the Applicants subject to the conditions stipulated to by the Applicants and as stated during deliberations. Mr. Cambria seconded.

Roll call: Aye: Baumann, Breslin, Cambria, Genirs, Kraus, Pochtar, Tancredi
 Nay: NONE

Motion carried.

COMMENTS FROM MEMBERS OR STAFF

Chairman Breslin reminded the Board that there is a meeting scheduled for Thursday, May 13, 2021.

ADJOURN

Moved by Mr. Kraus, seconded by Mr. Tancredi, all in favor and carried, the meeting was adjourned at 9:11 PM.

Respectfully submitted,

Cyndi Kiefer, Secretary
Zoning Board of Adjustment

Adopted as drafted 05/13/2021

05/10/2021v2 dssw

**ZONING BOARD OF ADJUSTMENT
TOWNSHIP OF BERNARDS**

**VERIZON CORPORATE SERVICES GROUP INC.
300 NORTH MAPLE AVENUE
BLOCK 803, LOTS 2, 3, 5, 6 and 23
Case No. ZB21-001**

RESOLUTION

WHEREAS, Verizon Corporate Services Group Inc. (hereinafter referred to as the “Applicant”), has applied to the Zoning Board of Adjustment of the Township of Bernards (hereinafter referred to as the “Board”), seeking preliminary and final site plan approval, together with subsection d(3) conditional use and, bulk variance relief, and site plan exception/waiver relief as set forth below, in connection with the proposed demolition of two (2) existing tennis courts (hereinafter referred to as the “Tennis Courts”) and the construction of a proposed fifty (50) parking space parking lot accessed from an existing on-site parking area situated on an environmentally constrained property, identified as Block 803, Lots 2, 3, 5, 6 and 23 on the Township of Bernards Tax Map, more commonly known as 300 North Maple Avenue (hereinafter referred to as the “Property” or the “Site”):

Use and Bulk Variance Relief:

1. A conditional use variance pursuant to N.J.S.A. 40:55D-70(d)(3) as a conference inn is a conditional use in the E-1 Zone and the present application does not meet the following condition: Section 21-12.3(i)(19) Minimum parking setback from a front property line, whereas one hundred fifty (150’) feet is required
2. A bulk variance pursuant to N.J.S.A. 40:55D-70(c) as no parking area shall be located within 150 feet of a front property line pursuant to Section 21-22.1.b.3(b) and parking is currently situated 33.8’ from the Route 287 right-of-way and the additional parking lot is proposed to be setback 51.2’ from the Route 287 right-of-way;

Site Plan Exception/Design Waiver Relief:

3. Section 21-39.3.a.3(c): Parking areas with more than twenty-five (25) spaces shall have separate entrances and exits, whereas the proposed parking area has fifty (50) parking spaces and a combined entrance and exit driveway;
4. Section 21-41.2: Maximum permitted height of light poles within two hundred fifty (250) feet of a residential zone is twelve (12) feet, whereas the proposed height of four (4) light poles within two hundred fifty (250) feet of a residential zone is twenty (20) feet;
5. Section 21-41.3: Maximum average maintained horizontal illumination permitted in a non-residential vehicular roadway area is 0.9 footcandles, whereas 1.79 footcandles is proposed;
6. Section 21-41.3: Maximum average maintained horizontal illumination permitted in a non-residential sidewalk area is 0.9 footcandles, whereas 1.32 footcandles is proposed; and

Zone Two Waiver Relief:

7. Section 21-14.4.d.10: A zone two waiver to eliminate the portion of zone two occupied by the proposed parking area is required; and

WHEREAS, a special public hearing on notice was held on such application on March 11, 2021, at which time interested citizens were afforded an opportunity to appear and be heard; and

WHEREAS, the Board, after carefully considering the evidence presented by the Applicant and members of the public, and the reports from consultants and reviewing agencies, has made the following factual findings and conclusions:

1. Chairman Breslin recused himself from hearing the case.
2. The Board reviewed the application and deemed it complete.
3. The Property is located on the westerly side of North Maple Avenue across from the Verizon Corporate Campus in the E-1 Office and R-4 residential zones. It is comprised of five (5) contiguous lots totaling 34.99 acres. The majority of the development consists of “The Ridge”

hotel and associated ancillary uses and improvements. The Ridge constitutes a conference inn pursuant to Section 21-3.1 of the Township's Land Development Ordinance, which defines a "conference inn" as follows:

Conference Inn – Shall mean one or more structures on a site designed to accommodate individuals or groups of persons with the primary purpose of providing formal or informal education, training facilities, lectures and business and commerce meeting facilities for those individuals or groups of persons. A conference inn shall provide living accommodations, dining and entertainment facilities as well as resource centers, media rooms and meeting rooms and may also provide indoor and outdoor recreation areas, indoor and outdoor swimming pools and other such accessory uses as may be subordinate and customarily incidental to the principal use.

4. The existing conference inn and surface parking areas were constructed pursuant to Planning Board approvals between 1986 and 1997. In 2018, the Board of Adjustment granted variances to permit replacement of two (2) existing freestanding identification signs, and in 2020, the Board of Adjustment granted site plan and variance approvals to permit the installation of six (6) test nodes (a/k/a antennas) for 5G wireless communications testing/research.

5. Pursuant to Section 21-10.5.a.3(b) of the Township's Land Development Ordinance, a conference inn is a conditional use in the E-1 Zone. Since the Application does not meet all of the conditional use standards set forth in Section 21-12.3.i, the Applicant is seeking "d(3)" conditional use variance approval pursuant to N.J.S.A. 40:55D-70d(3). The Applicant also seeks preliminary and final site plan approval, and "c" (bulk) variance and design exception relief as indicated above.

6. All of the existing improvements and all proposed improvements/disturbances are in the E-1 Zone. The following is a partial list of those conditions that must be met for a conditional

use within the E-1 zone:¹

- a. *Section 21-12.3.i.5. The maximum coverage of all impervious surfaces shall be 70% allowed for the zone.* - The E-1 Zone permits a maximum coverage of 40%, so the maximum permitted coverage for a conference inn is 28%. The proposal results in a net increase in impervious surfaces of 0.15 acres, which increases the coverage from 17.7% to 18.2%, and complies with this conditional use standard.
- b. *Section 21-12.3.i.7. At least 25% of the entire tract, whether or not the tract lies wholly within the “E-1” or “E-2” Zone, shall be retained as undisturbed open space and protected by a conservation easement running to the Township.* The Applicant will be revising the plans to specify the exact amount of undisturbed open space proposed to be protected by conservation easements, as set forth in the conditions below, though it is clear that the proposal complies with this conditional use standard.
- c. *Section 21-12.3.i.9. The applicant shall demonstrate that adequate parking will be provided to serve the proposed development. The development plan shall show a minimum of one parking space per bed in addition to those spaces required by Section 21-22 of this chapter for restaurant(s) and lounge(s) open to the public. The Board may, however, approve a reduction in the number of spaces to be constructed initially pursuant to Subsection 21-22.1, Paragraph a.1.* Based on two hundred eleven (211) beds (the restaurant/lounge is not open to the public), the minimum parking requirement is two hundred eleven (211) spaces. The proposed parking expansion increases the parking supply from three hundred sixty-eight (368) to four hundred eighteen (418) spaces. The proposal complies with the conditional use standard.
- d. *Section 21-12.3.i.10. All recreation and parking areas shall be screened from view from all property lines.* The Applicant relies on the existing woods for screening of the parking area and proposes house-side shields to screen any glare caused by the pole mounted parking area lighting. The Applicant will be revising the plans to include supplemental plantings to adequately screen any vehicle headlight glare from the adjoining residential properties to the south and east, as set forth in the conditions below, to fully satisfy this conditional use standard.
- e. *Section 21-12.3.i.19. All other applicable requirements of this chapter for the zone shall be met.* The proposal does not comply with Section 21-22.1.b.3(b), which requires a minimum parking setback of one hundred fifty (150’) feet from a front property line in the E-1 Zone. The applicant proposes a 51.2’ parking setback from

¹ Most of the conditional use standards applicable to a conference inn, as set forth in §21-12.3.i, are intended to regulate the amount of floor area and the operation of the various uses permitted within the building (guest rooms, educational/training facilities, indoor recreation, restaurant/lounge, etc.), and will not be affected by the proposed parking expansion.

the Route 287 right-of-way. This deviation requires a “c” (bulk) variance and results in the proposal requiring a “d(3)” conditional use variance pursuant to N.J.S.A. 40:55D-70d(3), to permit deviation from a standard pertaining to a conditional use.

7. The Township Land Development Ordinance in Section 21-3.1 defines “front lot line” as “*the lot line separating the lot from the street right-of-way.*” While the Planning Board in 1997 and earlier did not consider the Route 287 right-of-way to be a front property line, the Planning Board has more recently found that the Route 287 right-of-way does constitute a front property line. For example, in separate applications decided in 2011 and 2015 involving the property directly across Route 287 from the subject property (131 Morristown Road Investors, LLC), the Planning Board considered the Route 287 right-of-way to be a front property line. And in 2015, the Board of Adjustment concluded the same as related to an application site at the corner of Route 287 and North Maple Avenue (The Silverman Group). In each of these applications, each board granted a variance from Section 21-22.1.b.3(b) to permit a front parking setback less than one hundred fifty (150) feet from the Route 287 right-of-way.

8. The Applicant proposes to remove the existing Tennis Courts and construct an additional fifty (50) parking space parking lot accessed from an existing on-site parking area by a single combined entrance/exit driveway at a single location.

9. The Applicant submitted the following documents for review by the Board:

- Preliminary and Final Site Plans prepared by David F. Wisotsky, P.E., of Bohler Engineering, with a business address of 30 Independence Blvd., Suite 200, Warren, New Jersey 07059, dated October 14, 2020, last revised January 21, 2021, same consisting of nineteen (19) sheets.
- ALTA/NSPS Land Title Survey prepared by Jack W. Shoemaker, P.L.S., of U.S. Surveyor, with a business address of 4929 Riverwind Point Drive, Evansville, Indiana 47715, dated December 8, 2016, last revised December 15, 2016, same consisting of two (2) sheets;

- Conservation Easement Exhibit prepared by David F. Wisotsky, P.E., of Bohler Engineering, with a business address of 30 Independence Blvd., Suite 200, Warren, New Jersey 07059, dated November 2, 2020, same consisting of one (1) sheet;
- Boundary and Topographic & Utility Survey prepared by James D. Sens, P.L.S., of Control Point Associates, Inc., with a business address of 30 Independence Boulevard, Suite 100, Warren, New Jersey 07059, dated May 5, 2020, same consisting of two (2) sheets;
- The Applicant submitted a Limited Geotechnical Investigation & SWM Area Evaluation prepared by Kyle J. Kopacz, P.E., and Lawrence W. Keller, P.E., of Whitestone Associates, Inc., with a business address of 30 Independence Boulevard, Suite 250, Warren, New Jersey 07059, dated December 4, 2020, same consisting of twenty (20) pages;
- Environmental Impact Assessment prepared by Bohler Engineering, with a business address of 30 Independence Blvd., Suite 200, Warren, New Jersey 07059 dated October 2020, same consisting of fifty-two (52) pages;
- Stormwater Management Report, prepared by David F. Wisotsky, P.E., of Bohler Engineering, with a business address of 30 Independence Blvd., Suite 200, Warren, New Jersey 07059, dated November 2020, same consisting of one hundred thirty-six (136) pages and attachments;
- Flood Area Applicability Determination, prepared by Dennis Contois, P.E., of the New Jersey State Department of Environmental Protection regarding Flood Hazard applicability Determination, dated November 16, 2020, same consisting of two (2) pages;
- Flood Hazard Area Verification – Delineation of Riparian Zone Only, prepared by Dennis Contois, P.E., of the New Jersey State Department of Environmental Protection, same consisting of three (3) pages; and
- Correspondence from County of Somerset Planning Board, dated December 15, 2020, regarding Verizon Corporate Services Group – Parking Expansion, same consisting of one (1) page.

10. David Schley, P.P., A.I.C.P., the Township/Board Planner, Thomas Quinn, P.E.,

C.M.E., the Board Engineer were duly sworn according to law.

11. Steven J. Tripp, Esq., of Wilentz, Goldman & Spitzer, P.A., appeared on behalf of

the Applicant.

12. Abhilasha Bhalani Patel, Manager of Global Real Estate of Verizon Corporate Services Group, Inc., having a business address of One Verizon Way, Basking Ridge, New Jersey 07920, was duly sworn according to law as a factual witness on behalf of the Applicant, and testified to the following:

- a. There are currently three hundred sixty-eight (368) parking spaces on the Property and the Applicant seeks to add an additional fifty (50) parking spaces with the construction of the new parking lot in place of the existing Tennis Courts, which are no longer in use, for a total of four hundred eighteen (418) parking spaces.
- b. In response to questions by the Board, Ms. Patel testified that three hundred sixty-eight (368) parking spaces, plus the additional fifty (50) spaces, are required because the Ridge hotel contains a conference center and ballrooms as well.
- c. In response to a question from the Board, Ms. Patel testified that when the conference center is full, i.e., all eighteen (18) meeting rooms and two (2) ballrooms² are in use, additional parking is needed. She further testified that the conference center operates daily from 8:00 a.m. to 5:00 p.m. However, the additional parking will be used primarily for employees and hotel/conference inn overflow parking.
- d. In response to a question by the Board, Ms. Patel testified that there are one hundred seventy-three (173) hotel rooms at Ridge Hotel.
- e. In response to a question by the Board, Ms. Patel testified that employees will be walking along sidewalks from the proposed parking lot to the Ridge hotel and ancillary facilities without the aid of public transportation.

13. Kyle McKenna, P.E., the Applicant's professional engineer from Bohler Engineering, who was duly sworn according to law as a witness for the Applicant, provided his professional credentials, was accepted by the Board as an expert in the field of civil engineering, and testified to the following:

- a. The Property is accessed from North Maple Avenue to the east, with street frontage

² Ms. Patel acknowledged that at the time of the application/hearing, COVID-19 quarantining restrictions were in place and that the Hotel and Conference rooms were not being occupied to full capacity.

along the Route 287 right-of-way to the northwest and Madisonville Road to the south.

- b. The existing conference inn located on the Property, including the surface parking areas, was constructed pursuant to Planning Board approvals granted between 1986 and 1997.
- c. The site was most recently before the Board of Adjustment in 2020, when the Board granted site plan and variance approvals to permit the installation of six (6) test nodes (a/k/a antennas) for 5G wireless communications testing/research, and in 2018, when the Board granted variances to permit replacement of two (2) existing freestanding identification signs.
- d. The Applicant proposes to remove the Tennis Courts to accommodate the construction of a fifty (50) parking space parking lot, approximately one hundred fifty (150) feet southwest of the existing building.
- e. The Applicant proposes a drive aisle, constructed in the location of existing walkways and emergency access road on the Property, which will provide access to the new parking area from an existing parking area on the northwest side of the building.
- f. The proposal includes the installation of seven (7) new light poles, four (4) of which will be within two hundred fifty (250) feet of a residential zone, as well as landscaping and an underground stormwater detention basin beneath the proposed parking area.
- g. The existing parking areas in the front yard of the existing Ridge hotel were approved by the Planning Board under two (2) different scenarios, one (1) conforming and one (1) requiring relief. In all of the prior approvals (1997 and earlier), the Planning Board did not consider the Route 287 right-of-way line to be a front yard, so when applying the parking setback requirements of Section 21-22.1.b.3(b) of the Ordinance, the Planning Board applied the fifty (50) foot side/rear yard setback, not the one hundred fifty (150) foot setback currently being enforced.
- h. As per the Applicant's 1997 approval of a sixty-six (66) space parking expansion, the Planning Board granted relief to permit the now-existing 33.8 foot parking setback from Route 287.
- i. A color version of page C-101 of the Applicant's original submission, an aerial view of the Property, dated March 11, 2021, depicting the existing conditions on the Property, including but not limited to environmental conditions and restrictions, was introduced as **Exhibit A-1**.

- j. Page C-302 of the Applicant's original submission, last revised March 11, 2021, describing the current and proposed conditions of the Property with the Tennis Courts to be removed and the proposed fifty (50) space parking lot to be added, containing both nine (9') foot by eighteen (18') foot parking spaces with a two (2') foot overhang and nine (9') foot by twenty (20') foot parking spaces without a two (2') foot overhang, which was introduced as **Exhibit A-2**.
- k. The Americans with Disability Act ("ADA") requirements and development standards applicable to the parking stalls and drive aisles will be met.
- l. With regard to the Ordinance requirement that a separate entrance and exit for parking areas with twenty-five (25) or greater parking spaces, here, the main entrance to the Ridge hotel has the required separated entrance and exit, and the proposed lot is merely ancillary.
- m. With regard to the proposed lighting on the Site, the proposed light poles that exceed the twelve (12') foot maximum height point inward at a downward direction to avoid any possible light spillage to adjoining properties. Due to the height of the proposed light poles, less lights are needed, therefore further reducing the possibility of light spillage onto adjacent properties.
- n. With regard to stormwater management, the Applicant's proposal includes an underground detention basin below the proposed parking area to control runoff from the proposed development.

14. Keenan Hughes, P.P., the Applicant's professional planner from Phillips Preiss, was duly sworn according to law as a witness for the Applicant, provided his professional credentials, was accepted by the Board as an expert in the field of professional planning, and testified to the following:

- a. The Site is within the E-1 zone, which permits a conference inn as a conditional use under the Ordinance standards, from which the Applicant is seeking conditional use variance relief.
- b. Prior approvals for the Property considered the Route 287 right-of-way as a side yard and parking was approved with an approximately thirty (30) foot setback therefrom.
- c. For the proposed parking, the Applicant is seeking relief to provide parking within the front yard at 51.2 from the Route 287 right-of-way.

- d. Pursuant to Coventry Square v. Westwood Zoning Bd. of Adjustment, 138 N.J. 285 (1994), the Applicant can demonstrate that the Site can accommodate the use notwithstanding the nonconformity with the condition set forth within the Ordinance for a conditional use.
- e. With regard to the positive criteria required to grant a d(3) conditional use variance:
 - i. The Site is appropriate notwithstanding the setback, as prior resolutions permitted parking within approximately thirty (30) feet of Route 287, from which there have not been any issues over the past thirty (30) years;
 - ii. The Applicant proposes parking further away from the Route 287 right-of-way than is already existing;
 - iii. The Applicant's proposal will make the Property more compliant as to the front parking setbacks along the Route 287 right-of-way; and
 - iv. Given the environmental constraints on the Property, any additional parking would be precluded but for this particular part of the Site that is already developed, replacing tennis courts with a parking area, which is a better planning alternative than constructing parking in another location, which would be adversely environmentally impacted.
- f. With regard to the negative criteria required to grant a d(3) conditional use variance:
 - i. There is no substantial detriment to the public good as can be seen by the prior approvals;
 - ii. The only reason that relief is required is the change in the interpretation of the Ordinance as to whether the frontage along Route 287 is a front yard or a side yard;
 - iii. The parking lot is set further back than the existing parking and the existing Tennis Courts, which brings the site closer to compliance with the Zone, even considering the discussion as to lighting and site design; and
 - iv. There is no impairment to the zone plan/zoning ordinance.
- g. With regard to the relevant conditional use standards in Section 21-12.2 and .3 of the Ordinance, the following considerations were made:
 - i. Preservation of existing natural resources. This Application will not impact environmentally sensitive areas making this proposal the appropriate location for a parking area;

- ii. Safe and efficient circulation. This Site is designed to all standards in the Zone as to sidewalks and access ways; and
 - iii. Proposed screening and lighting. Substantial distance from the neighboring properties is proposed with the addition of landscaping to screen headlight glare resulting in no substantial impacts along those sight lines.
- h. With regard to design waivers, full compliance is not practical, but the Applicant still meets the intent of the zoning ordinance:
- i. The Applicant's overall proposed illumination is appropriate for the area;
 - ii. From a planning perspective, the height of the light poles is appropriate and within the intent of the Ordinance as fewer light poles results in a smarter design for the Site with better lighting and less hotspots; and
 - iii. Separate entrances and exits are likely intended for entrances and exits onto a public right-of-way, whereas the Applicant proposed an entrance/exit that is completely interior, eliminating the purpose of separating the exit/entrance, which would result in additional impervious surface coverage.
- i. With regard to the Zone 2 waiver, same is considered a technical requirement; the Applicant stipulates to complying with the requirement of providing a stream buffer management plan.

15. As to the comments set forth in the March 9, 2021 Memorandum prepared by Township/Board Planner, David Schley, the Applicant stipulated to submitting the requested plan revisions discussed within the memorandum and at the hearing and as set forth below.

16. As to the comments set forth in the March 8, 2020 Memorandum prepared by Thomas J. Quinn, P.E., C.M.E., Board Engineer, the Applicant stipulated to complying with any and all comments contained therein and at the hearing and as set forth below.

17. No member of the public commented or objected to the Applicant's proposal.

BOARD DECISION

After reviewing the evidence submitted, the Board, by a vote of seven to zero (7 to 0), finds

that the Applicant has demonstrated its entitlement to preliminary and final site plan approval, and the variance and site plan exception/waiver relief sought herein. The Board found the following:

The d(3) Variance Relief:

1. As to the requested d(3) conditional use variance pursuant to N.J.S.A. 40:55D-70d(3), the positive criteria requires the Board to find that the Site can accommodate the problems associated with the proposed use despite the violation of the condition. The Board finds that the replacement of non-conforming Tennis Courts with a fifty (50) space parking lot is an adaptive reuse of an existing nonconformity therefore meeting this requirement. The Board finds that the location of the proposed fifty (50) space parking lot, an adaptive reuse of space occupied by an existing nonconforming accessory use tennis court between the existing Ridge hotel and Route 287 right-of-way, poses no substantial detriment to the public good, nor does it impair the intent of the purpose of the zone plan or zoning ordinance within the Township.

2. As to the d(3) variance relief sought by the Applicant herein, the Board finds that, consistent with the standards set forth in Coventry Square, 138 N.J. 285 (1994), the Applicant has established that the Site can accommodate the problems associated with the proposed use, despite the violation of one of the conditions imposed by Section 21-12.3 of the Land Development Ordinance. Here, the Applicant’s proposal will not exacerbate any of the current nonconforming conditions set forth in Section 21-12.3 except for parking within one hundred fifty (150) feet of the front property line (Route 287 right-of-way). Due to environmental constraints, the Applicant proposes to construct the proposed parking area in an area that is currently occupied by the unused Tennis Courts, nevertheless increasing the magnitude of the nonconforming condition. In this regard, the Board recognizes that the condition for which the Applicant seeks a variance, parking within one hundred fifty (150) feet of the Route 287 right-of-way is an existing condition that is

only being slightly intensified. The Board finds that the intensification of this variance is de minimis. Additionally, the Board recognizes that the Tennis Courts have existed in this location for some time and the location is being improved such that any detrimental impacts associated with the Tennis Courts are being eliminated. In addition, the setback for the new parking area from Route 287 will actually be greater than the existing setback of the Tennis Courts. Further, the Board acknowledges the benefits associated with the proposed parking area which allows the Applicant to preserve environmentally sensitive areas of the Site. Specifically, the Board finds that the proposed location of the parking area is more appropriate than placement of same in a conforming location as the proposed location allows for maximum utilization of the space in an aesthetically pleasing and safe manner. In sum, the Board finds that the Applicant has satisfied the positive criteria required for the grant of d(3) conditional use variance relief.

3. The Board next finds that the Applicant has satisfied the negative criteria for d(3) conditional use variance relief by demonstrating that the requested variance can be granted without substantial detriment to the public good (i.e., not substantially out of character with the neighborhood) and without substantial impairment of the intent and purpose of the zone plan (Master Plan) and the Zoning Ordinance (i.e., not spot zoning).

4. The focus of the “substantial detriment” prong of the negative criteria is on the impact of the variance on nearby properties. Here, the Board recognizes the significant distances between the proposed parking area and the nearby residential areas, the substantial landscape screening (proposed and existing) between same and the lack of any public opposition to the proposal, makes the granting of the same appropriate.

5. The focus of the “substantial impairment” prong of the negative criteria is the extent to which a grant of the variance would constitute an arrogation of the governing body and planning

board authority to zone. Here, the Board recognizes the relatively modest nature of the proposal. Accordingly, the Board finds that the proposed development would not be substantially detrimental to the public good, nor would a grant of the requested variance relief substantially impair the intent and purpose of the Master Plan or the Zoning Ordinance.

The c(2) “Bulk” Variance Relief – Positive Criteria:

6. With regard to the setback distance to the parking area from the Route 287 right-of-way, the Board finds, as to the “positive criteria” under subsection c(2) of N.J.S.A. 40:55D-70, that the Applicant has satisfied its burden of demonstrating that the purposes of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. (hereinafter referred to as the “MLUL”), will be advanced by the requested deviation from the zoning requirement and that the benefits to be derived therefrom will substantially outweigh any detriments associated therewith. The proposed parking and lighting will promote safety and enhance the visual compatibility of the new parking area with the surrounding Site and adjoining properties and otherwise promote the general welfare. Specifically, the Board finds that the construction of additional parking in an area of the Site that is already developed is a better planning alternative than constructing parking in another location, which would have adverse environmental impacts. These benefits substantially outweigh the relatively modest detriments associated with the nonconforming parking setback from the Route 287 right-of-way. The Board finds that the Applicant has satisfied its burden of demonstrating that the purposes of the MLUL will be advanced by the requested deviations from the zoning requirements and that the benefits to be derived therefrom will substantially outweigh any detriments associated therewith. In this regard, the Board adopts the testimony of the Applicant’s Planner that the proposal advanced purposes (a), (g), and (i) of the MLUL in that it promotes the

public health, safety, morals and general welfare; provides sufficient space for commercial uses; and promotes a desirable visual environment. In addition, the Board finds that any potential detriment resulting from the granting of the requested relief is mitigated by the substantial landscape buffering and existing topographical conditions. As such, the Board finds that the Applicant has satisfied the positive criteria for “c(2)” or “flexible c” variance relief for all of the bulk variances requested.

The c(2) “Bulk” Variance Relief – Negative Criteria:

7. The Board further finds that the Applicant has satisfied the “negative criteria” for the requested bulk variance relief. Specifically, the Board finds that the Applicant has demonstrated that the requested relief can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the Master Plan and Zoning Ordinance. In this regard, the Board recognizes that the Applicant has mitigated the detrimental impacts of the proposal, particularly given the stipulated to conditions as set forth below. As to the first prong of the negative criteria, the Board finds that granting the requested relief will not result in any substantial detriment to the public good nor substantial impairment to the Master Plan or Zoning Ordinance. Here, the Applicant is proposing to construct a parking lot within, and appurtenant to, the existing Ridge hotel and related parking facilities, and same will only result in an additional fifty (50) parking spaces, an adaptive reuse of the Tennis Courts, that will be used primarily for employee and overflow parking. The Board recognizes that the proposed parking lot is located such that it is nearly imperceptible to the surrounding residential neighbors due to the natural topographic conditions and the existing and proposed landscape buffering. As to the second prong of the negative criteria, the Board finds that granting the requested relief will not

result in substantial impairment of the Master Plan and Zoning Ordinances. In this regard, the Board recognizes that the parking lot will eliminate an existing nonconforming accessory use, the Tennis Courts, in the front yard setback and will improve the functionality of the Site for both employees and visitors. The Board further recognizes that granting the requested relief will not result in a rezoning of the Property. As such, the Board finds that the Applicant has satisfied the negative criteria for the “c(2)” or “flexible c” variance relief for all of the bulk variances requested.

Zone Two Waiver:

8. The Site is traversed by unnamed tributaries to the Passaic River and as a result, contains overlapping Township-regulated stream buffer conservation areas and DEP regulated riparian zones. The stream buffer conservation area is comprised of a “zone one”, which extends twenty-five (25) feet from the top of each stream bank, and a “zone two”, which extends an additional two hundred seventy-five (275) feet. The outer boundaries of the stream buffer conservation areas coincide with the outer boundaries of the three hundred (300) foot wide riparian zones.

9. The easterly portion of the proposed parking area encroaches upon both the stream buffer conservation area (zone two) and the riparian zone. As to the riparian zone, the Applicant has obtained from the DEP a determination that the proposed construction of a parking area within a previously disturbed riparian zone qualifies for a permit by rule. As to the stream buffer conservation area, within which parking areas are not permitted under Section 21-14.4.d.10 of the Township Ordinance, the Applicant may request a zone two waiver to eliminate the portion of zone two occupied by the parking area. Pursuant to Section 21-14.4.b.3(d):

“If the applicant submits a stream buffer management plan, in consideration of Subsection 21-14.4a, that proves to the

satisfaction of the approving authority that a proposed vegetative or other enhancement to Zone One will eliminate the need for a Zone Two or a portion of Zone Two, the approving authority shall waive the requirement for a Zone Two or a portion of Zone Two, provided that the approved stream buffer management plan is implemented by the applicant.”

10. Here, the Board finds that the Applicant will submit a stream buffer management plan that will eliminate the need for a portion of the required buffer and grants the requested waiver relief.

The Site Plan Exception Relief:

11. Pursuant to Section 21-34 of the Township’s Land Development Ordinance, an exception may be granted from the ordinance requirements for site plan approval as may be reasonable and within the general purpose and intent of the provisions of such ordinance provisions if the literal enforcement of one (1) or more provisions of the ordinance is impracticable or would exact undue hardship because of peculiar conditions pertaining to the land in question. The Board finds that the four (4) site plan exceptions sought by the Applicant should be granted, since literal enforcement of the Land Use Ordinances would be impracticable and exact undue hardship upon the Applicant due to the size of the Property and the location, and configuration, of the structures lawfully existing thereon. The four (4) proposed exceptions relate to the lack of separate entrances to/from the proposed parking lot for employees and visitors, the height of light poles within two hundred fifty (250) feet of a residential zone and the average illumination of said lighting in both vehicular and sidewalk areas. The Board accepts the Applicant’s expert testimony that the Applicant does not have sufficient space for separate entrances and exits in the parking areas given the design and location of the proposed parking and the internal connecting roads. The evidence

revealed that the ingress/egress to the parking lot and the interior traffic circulation would be sufficient and would comply with generally required standards, notwithstanding the relatively modest deviation from the Township's Land Development Ordinance. With respect to the lighting, the Board finds that the proposed height and number of proposed lights is appropriate and necessary to ensure the safety of the employees and visitors to the Site, and the increased height of the light poles is a function of being located in such an area where the increase in pole height will reduce the number of light poles required and reduce any potential for light spillage onto the surrounding properties. As to the average illumination in vehicular and sidewalk areas, the Board finds that the increased lighting improves public safety in these areas. As such, the Board finds that the Applicant has demonstrated an entitlement to the requested site plan exception relief.

Preliminary and Final Site Plan Approval:

12. The Board finds that good cause exists for granting the application for preliminary and final site plan approval, subject to the conditions of approval set forth below.

WHEREAS, the Board took action on this application at its meeting on March 11, 2021, and this Resolution constitutes a Resolution of Memorialization of the action taken in accordance with N.J.S.A. 40:55D-10(g) and finds that the Applicant has satisfied all of the necessary conditions to approve the Application;

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of the Township of Bernards, on the 5th day of May, 2021, that the application of Verizon Corporate Services Group, Inc., for preliminary and final site plan approval and variance and exception relief, as aforesaid, be and is hereby granted, subject to the following conditions:

1. The Applicant shall post sufficient funds with the Township to satisfy any deficiency in the Applicant's escrow account and shall satisfy any outstanding taxes and/or municipal

assessments prior to the issuance of any building permits;

2. The Applicant shall make the following plan revisions, if not set forth above, as set forth in the March 9, 2021 Memo of David Schley, P.P., A.I.C.P., Township Planner:

- a. Sheet C-101 – amend the drawing sheet index to include the Conservation Easement Exhibit;
- b. Sheet C-201, etc. – revise the plans to show the boundaries of the existing gravel area south of the tennis courts and specify its removal and proposed restoration/seeding of the area;
- c. Sheet C-301 – Revise the plan to show that the proposed parking area provides a conforming one hundred fifty (150') foot setback from the residential zone boundary, consistent with the rest of the plans;
- d. Sheet C-301 – show the existing emergency access road;
- e. Sheet C-302 – add a note(s) referencing the obtained and pending DEP wetlands and flood hazard area determinations and verifications;
- f. Sheet C-302 – revise the parking table to specify the existing parking setback from a zone line is conforming (the centerline, not right-of-way line, of Route 287 is the zone boundary).
- g. Sheet C-302 – Revise the parking table to specify a total of nine (9) ADA (handicapped) parking spaces are required.
- h. Sheet C-703 – The proposal includes the removal of twenty-two (22) living trees ≥ 10 " caliper, requiring fifty-eight (58) replacement trees. The Applicant proposes to satisfy this requirement by planting thirty-one (31) trees in the project area and making an in-lieu contribution to the Township Tree Fund for twenty-seven (27) trees as per the requirements of Section 21-45.4.b of the Township's Land Development Ordinance, "Tree Replacement Alternatives", which states the following:

b. In lieu of planting replacement trees, the Board may permit the applicant to make a contribution to be deposited in the Township Tree Fund as established by this chapter. The contribution, in lieu of planting trees, shall be \$300 for each tree and shall be deposited in the Township Tree Fund prior to the Township issuing any building permits for the development.

- i. Sheet 704 – The Applicant shall show a line that represents a distance of two hundred fifty (250') feet from the residential zone boundary.

- j. Sheet C-901 – the Applicant shall revise the decorative aluminum fence detail to specify a maximum fence height of four (4') feet.
 - k. Sheet C-904 – the Applicant shall revise the steep slope map to identify the boundaries of the study area, to show the ten (10') foot contour intervals used for the mapping and to identify the slope categories of all land within the study area. The map presently shows only the areas that will be disturbed. Based on the slopes table, the proposal complies with the Township steep slopes ordinance.
 - l. The Applicant shall revise the Conservation Easement Exhibit (Sheet 1) to show both existing conservation easements (wetlands and stream buffer) and to illustrate the proposed amendments to each and to show the existing and proposed locations of the wetlands conservation easement boundary markers.
 - m. The Applicant shall revise the plans to include a statement addressing compliance with each conditional use standard set forth in Section 21-12.3.i, including necessary corrections to the specified numbers of required, existing and proposed parking spaces, and a note indicating the acreage of undisturbed open space protected by conservation easements.
 - n. The Applicant shall revise the plans to include proposed evergreen plantings to supplement the existing wooded area in screening vehicle headlight glare from the adjoining residential properties to the south and east.
3. Based upon the conditions as set forth in the March 8, 2021 Memo of Thomas J. Quinn, P.E., C.M.E., Board Engineer, the Applicant shall:
- a. Submit its Riparian Zone Verification plan for review by the Board's Engineer and for the file.
 - b. Confirm that all ADA stalls be van accessible and that all existing ADA stall signs are present and current.
 - c. Review and revise the plans, as necessary, to reflect the drainage and grading inconsistencies raised in paragraphs 4, 5, ,6 and 11 of Mr. Quinn's Memo.
 - d. Conduct a meeting with the Board Engineer and the design engineers to discuss clarification of the stormwater management calculations contained in paragraph 13 of Mr. Quinn's Memo, changes from which will be submitted to the Township Engineering Department for resolution compliance.
4. The Applicant shall revise the plans ensure that any additions or changes to the current Geo-Block Fire Access Road meet the required gross vehicle weight rating of eighty-two thousand (82,000 lbs.) pounds or forty-one (41) tons.

- a. The Applicant shall utilize the following dimensions on the revised plan to show Liberty Corner Fire Company Tower Forty (40) vehicle:
 - i. Overall length – 569.25 inches (47 feet and 5.25 inches);
 - ii. Overall width – 117 inches (9 feet and 9 inches);
 - iii. Minimum turning radius – 475 inches (39 feet and 2.75 inches);
and
 - iv. Gross vehicle weight rating – 82,000 pounds (41 tons).
 - b. Utilizing the above turning radius, the Applicant shall ensure that the appropriate turning radius is met from the rear Geo-Block Fire Access Road to the new asphalt driveway that leads to the proposed parking lot.
5. The Applicant shall submit for approval and thereafter shall implement a stream buffer management plan including measures necessary to offset the proposed disturbance to the stream buffer conservation area in accordance with Section 21-14.4.h.1 of the Townships Land Development Ordinance. The portion of zone two (2) that is requested to be waived shall be delineated on the current plans and all future plan submissions and same shall be subject to the review and approval of the Township Engineering Department.
6. The existing Wetlands Conservation Easement and Stream Buffer Conservation Easement shall be amended to reflect changes in easement boundaries resulting from this application. Existing wetlands conservation easement boundary markers shall be relocated and/or supplemented accordingly. The amended easements shall be prepared by the Township Attorney, or by the Applicant's attorney, at the discretion of the Township Attorney, and shall be subject to review and approval by the Township Attorney and Township Engineer, and shall be executed by the Applicant and recorded with the Somerset County Clerk prior to issuance of any permit. The wetlands conservation easement boundary markers shall be installed, or bonded, prior to issuance of any permit.
7. A stormwater management easement deeded to the Township shall be provided for the proposed stormwater management facilities. The easement shall include a maintenance manual, which shall be subject to review and approval by the Board Engineer. The easement shall be prepared by the Township Attorney, or by the Applicant's attorney, at the discretion of the Township Attorney, and shall be subject to review and approval by the Township Attorney and Township Engineer, and shall be executed by the Applicant and recorded with the Somerset County Clerk prior to issuance of any permit.
8. The Applicant shall conduct construction activities during only those hours permitted by the Township's Construction Noise Ordinance (Section 3-9.1), which are 7:00 a.m. to 7:00 p.m., Monday through Friday, and 8:00 a.m. to 5:00 p.m. on Saturday. Construction

activities are not permitted on Sundays or holidays.;

9. With the exception of security lighting, the Applicant shall ensure that the proposed light poles are turned off between the hours of 1:00 a.m. and 4:30 a.m., and at all times when the proposed parking area is not being used;
10. The Applicant shall revise the plans as necessary to specify native hardwood species as replacement trees, wherever practicable;
11. The soil erosion and sediment control plan shall be subject to the review and approval of the Somerset-Union Soil Conservation District;
12. The Applicant shall attend a pre-construction meeting with the Township Engineering Department prior to the start of any construction activity;
13. The Applicant shall submit digital copies of all plans and documents in formats acceptable to the Township Engineering Department;
14. The aforementioned approval shall be subject to all State, County and Township statutes, ordinances, rules and regulations affecting development in the Township, County and State. The Applicant shall obtain permits and/or approvals from all applicable agencies and/or departments, including but not necessarily limited to the New Jersey Department of Environmental Protection, and the Somerset-Union Soil Conservation District;
15. The aforementioned approval shall be subject to all requirements, conditions, restrictions and limitations set forth in all prior governmental approvals, including prior Planning Board and Zoning Board of Adjustment approvals, to the extent same are not inconsistent with the terms and conditions set forth herein; and
16. Pursuant to the Board's Rules and Regulations, the following time limitation conditions shall apply:
 - a. Revisions to Plans. Revisions to the submitted plans and other documents, as may be required as conditions of approval, shall be made, and the plans signed by the Board Secretary, within six (6) months of the adoption of the Board's resolution. In the event that the applicant fails to make the revisions as required and/or fails to obtain signatures on the plans as required, all within said time period, or extension thereof as granted by the Board, the approval shall expire and become automatically null and void.
 - b. Time to Obtain Construction Permits, Commence and Complete Construction, and Obtain Certificates of Occupancy. The Applicant shall apply for and obtain a construction permit within two (2) years of the adoption of the Board's resolution. If during said two (2) year period, or extension thereof as granted by the Board, the Applicant fails to obtain a construction permit, the approval shall automatically expire

and become null and void. The Applicant shall also have one (1) year from the date of issuance of the construction permit to commence construction and obtain a permanent certificate of occupancy. If during said one (1) year period, or extension thereof as granted by the Board, work is not commenced and/or a permanent certificate of occupancy is not obtained, the approval shall automatically expire and become null and void.

ROLL CALL VOTE:

Those in Favor: Baumann, Cambria, Genirs, Kraus, Pochtar, Tancredi

Those Opposed: NONE

The foregoing is a true copy of a Resolution adopted by the Zoning Board of Adjustment of the Township of Bernards at its meeting on May 5, 2021.



Cyndi Kiefer, Secretary
ZONING BOARD OF ADJUSTMENT
OF THE TOWNSHIP OF BERNARDS, COUNTY OF SOMERSET,
STATE OF NEW JERSEY

Dated: May 5, 2021