

**KINGWOOD TOWNSHIP  
BOARD OF ADJUSTMENT  
MINUTES  
August 09, 2023  
7:00 PM**

**CALL TO ORDER**

A regular meeting of the Kingwood Township Board of Adjustment (BOA) was called to order at 7:00 pm by the Chairman, Phil Lubitz.

**NOTIFICATION**

In order to ensure full public participation at this meeting, all members of this Board, and members of the public are requested to speak only when recognized by the Chair so that there is no simultaneous discussion or over-talk. Your cooperation is appreciated.

Adequate notice of this meeting was provided in accordance with the Open Public Meetings Act by publication of the notice in the Hunterdon County Democrat and Courier News on December 22, 2022. Copies of the notice were also posted in the Kingwood Township Municipal Building on December 22, 2022. The Board of Adjustment proceedings close at 10:30 pm.

**ROLL CALL:**

PRESENT: James Laudenschach – Vice Chairman (JL), David Hewitt (DH), Cynthia Ostergaard (CO), Leslie Bella (LB), David Frank (DF).

ABSENT: Phillip Lubitz – Chairman, John Mathieu, Paymon Jelvani

OTHERS: Matthew Flynn, Attorney (MF), John Hansen, Engineer (JH)

**NEW AND PENDING BUSINESS:**

Public Hearing for the following:

- **Block 24, Lot 1.01- Marinelli Brother Acquisitions, LLC** – Preliminary & Final Site Plan, C1 Non-Use Variance (Hardship) & C2 Non-Use Variance (Benefits vs. Detriments).

The Board Secretary received a phone call that the Chairman could not attend the Zoom meeting as his house was without power. Matt Flynn, Attorney and Jim Laudenschach – Vice Chairman conducted the meeting.

M. Flynn started the meeting by reading the call to order and public meetings act. He then asked for a roll call. M. Flynn stated there is one Public Hearing this evening for Block 24, Lot 1.01 Marinelli Brothers, LLC. He said let the record reflect that as the proceedings are opened, the applicant's notice was cleared last month for the timeliness and sufficiency, so the Board retains jurisdiction to act. He turned over the meeting to the applicant's attorney, Alan Lowcher (AL) filling in for Kara Kaczynski.

Mr. Lowcher stated that he wanted to confirm what the Board council said about the notice that Kara Kaczynski prepared does not request a use variance relief. What the Marinelli Brothers has applied for is a variance relief as needed and Mr. Martucci, Engineer will get into that later on, together with Preliminary and Final Site Plan approval for a number of things: Proposed addition to their existing restaurant to be used for storage; an expanded vestibule for sheltering their patrons as they come into the building. They have also proposed an ADA ramp leading up to the vestibule and a pergola over existing outside seating as an outdoor pavilion.

The second floor of the restaurant has been used as an apartment and as part of this application, they want to confirm its use as an accessible affordable housing unit.

Alan Lowcher continued the property has two front yards one on Barbertown-Point Breeze Road and one on Kingwood Road which is County Road 519. The building is located in the VR 2 Zone which permits all of the uses in the VR Zone. At the time the ordinance was adopted, according to his notes, was July 26, 1993. The Restaurant is a permitted use, and the restaurant has been in existence since 1993. Also, the residential apartment is a permitted use in the VR 2 Zone.

The applicants are requesting preliminary and final sight plan approval for the project together with any variances or waivers.

As far as the order of the testimony, there are three witnesses: Michael Marinelli (MM) representing Marinelli Brothers and is the owner and applicant; Ralph Finelli (RF), Architect providing elevations and photographs to show the proposed project will look like and Robert Martucci (RM), Engineer to review the Site Plan and address the comments in the Technical Review Letter from John Hansen, Twp. Engineer.

Mr. Lowcher requested that Mr. Flynn swear in all the witnesses.

M. Flynn swore in all the witnesses.

### **TESTIMONY**

AL – Michael we will start with you. Please spell your name.

MM- Michael Marinelli, M-A-R-I-N-E-L-L-I.

AL – What is your relationship to the applicant?

MM – I am the applicant and me and my brothers own the LLC and we operate the restaurant.

AL – How long have you done that?

MM – For the tavern, 4 years now.

AL – Why are you proposing the vestibule addition?

MM – It is actually for the customers, so they are comfortable so that don't get a cold wind on them. It is a good buffer for when they come in.

AL – Is there handicap access now or is it an improvement on it? There is no handicap ramp now?

MM – Correct.

AL – So this is proposed to become ADA Compliant. With respect to the one-story addition, what is the purpose of that?

MM – It's just for storage because right now all we have is a little shed out there and we have to go in and out. The addition would make it safer for the employees and everyone delivering food and everything else.

AL – Will the addition allow you to go from within the restaurant directly to the storage room?

MM – Correct, yes.

AL – You have outdoor seating already and all you are proposing is roofing over the existing seating? You are not expanding seating in any way?

MM – Yes that is correct.

AL – Mr. Hansen asked for some basic information about the restaurant operating hours – when you are open and when you are closed. Please provide some information about that for the record.

MM – The restaurant is open Wednesday through Sunday. We open at 4 o'clock. We are closed on Monday and Tuesdays. Deliveries are Mondays and Thursdays, but they are all in the A.M. before we are open. The alcohol comes on Tuesday, Wednesday, Thursday and they come with a box truck before hours of operation.

AL – So there is no conflict with deliveries and your patrons entering and exiting the site?

MM – Correct.

AL – Turning to the residential apartment, it's existing. Mr. Hansen asked if you were making any modifications to it.

MM – No just updating it.

AL – Have you reviewed the accessory affordable housing requirements and the zoning ordinance and are you prepared to accept them?

MM – Yes, I have, and I do accept.

AL – And that would include restricting the accessory affordable housing for low income as a low-income unit.

MM – That is correct.

MF – Mr. Lowcher you will need a stipulation in the record for compliance, not just with the ordinance but with state regulations surrounding affordable housing including but not limited to uniform housing, coordination controls.

AL – Correct. That's included in your ordinance as a condition or rather a requirement.

MF – OK proceed.

AL – I don't have any other questions for Mr. Marinelli, so it is open up to Board members.

JL – Is there a tenant in there now?

MM - No there is not.

JL – Is it a one bedroom or a two bedroom?

MM – It is a 2 bedroom.

LB – How long has the apartment been vacant?

MM – Well it's been vacant ever since we owned it so I am not really sure.

LB – And the upgrades that you've proposed, what's the extent of those? Can you describe that?

MM – We have to redo basically everything just to make it up to date. Like a new kitchen, new sheet rock.

LB – So it is a state of disrepair?

MM – Yes.

LB – Where is the access to the apartment?

MM – It is behind the building.

LB – It is the stairs I take it.

MM – Yes.

LB – I have no more questions.

MF – Anybody else on the Board have questions?

DH – I have no questions. I'm familiar with the building.

LB – I do have another question. If you are adding a handicap ramp with the vestibule and the area to get into the restaurant area, be sufficient enough for a wheelchair to get through?

MM- That's a Ralph Finelli question but I believe so.

MF – Council do you want to call your next witness?

AL – Do you want to open it up to the public for questions?

MF – We usually do that at the end after conclusion of all your direct.

AL – Okay. Fine. The next witness would be Ralph Finelli, the architect. Hello, Ralph, I don't know if you've appeared before this board or not, but let's briefly qualify. As an expert in the field of architecture, give us the benefit of your education and experience.

RF – I got a degree from the New Jersey Institute of Technology in 1981, the license since 1984 and in my own practice since 1987. I've appeared before this board a number of times, most recently around 2008 and 2009.

AL – Does the board have any questions of Mr. Finelli in terms of his qualifications as an architect?

JL – We accept his qualifications.

AL – Ok Ralph why don't you proceed. (Mr. Finelli shared the screen with his drawings).

RF – Okay so you should see on your screen now the drawing. This is the same drawing that has been submitted. There is a modification that was made this afternoon. Mr. Hansen requested to see what the Barbertown-Point Breeze elevation would look like.

AL – Since you made a modification, this is now an exhibit. We'll call it A-1. If you can please recite what it is and the date of the revision.

RF – OK so this is Sheet A-1 and Sheet ZB-1, the Revision date 8-9-23. I will briefly run through what you have already seen. There is the floor plan of the building. The big, open space is the restaurant, all the operation on the inside. We aren't touching anything on the inside of this area. There are two primary components of the addition. As you look at this drawing, the vestibule including the ADA access ramp is at the bottom, Rt. 519 is at the top of the page, Barbertown-Point Breeze Road is on the right, the parking lot is back here. The patrons will enter through the existing door. We've worked out the grades with the engineer. The patrons will approach the ramp with the code required landing. They will get on the path with a wheelchair and turn it 360 degrees, then ramp up to another landing outside the door, enter the vestibule and then into the restaurant. It is not as small a ramp as it could be but it is no bigger than it has to be for safe passage. Someone asked if someone in a wheelchair could get through the door and the restaurant without banging into the back of chairs. That is exactly what has been provided.

RF – The second component is the storage space. Mike had said that to get to the pre-existing storage space you had to come out of the restaurant to get into that space regardless of the weather or time of day. It was difficult if not impractical. To meet the demands of the restaurant we've created one large one story space and have easy access for deliveries directly from the walkway and then 2 existing doors that go outside and doors into the storage space from inside the restaurant. The size of that space is about 20 ft x 27 t. so about 600 s.f. of dedicated storage space.

RF – A board member asked about access to the apartment. The apartment is on the second floor. It is over the bulk of the center portion of the restaurant with access by a stair here. It is on the Rt. 519 side and virtually invisible because of the planting along the road there. This will continue to be the only access to the apartment – up the stairs to a landing and then into the second-floor door to the apartment. As Mike said, it is a 2-bedroom apartment and hasn't been lived in for a long time so the improvements would be upgrading code compliance upgrades. Cosmetic upgrades, no real structural alterations. Looking at the rear elevation you can see the vestibule on the right. This is the view from the parking lot. The dotted line is the existing storage. We're going to extend flush with that and continue the flat roof and stucco finish. No windows. The rest you see is existing and will not be changed. (He then showed and explained all the other elevation drawings).

RF – I'm going to go to the pavilion.

DH – Since we are talking about the handicap ramp, once we have the people in the restaurant, is the restroom going to be accessible enough?

RF – The UCC requirements for the work being done does require us to do so. We spend a certain percentage of the construction budget on ADA Compliance. We will meet that by virtue of the ramp and vestibule. In the extent of the bathrooms, what we can do and what we can't do by virtue of the space that is there and that's allowed. We can be sure the signage is ADA compliant; the door swings are ADA compliant, and the grab bars are ADA compliant, mounting height of fixtures etc. are ADA compliant. We will by far exceed what is required and bring it as close to compliance as we can.

RF – Going back to the pavilion, it is a fairly simple structure, 40 ft x 40 ft, 1,600 sf. of roofed area of timber frames and gussets to fit in with the vernacular of the area and then a metal roof. It is an open structure from inside. There will be some convenience lighting and security lighting and a ceiling fan or tow. It is a hip roof so it will look the same from all 4 sides.

LB – Is there a front view from Rt. 519?

RF – No we did not draw one. There is not much changing from the existing.

LB – So with the proposed larger storage room the doors that are currently available for egress will only go into the storage rooms. What additional egress is there other than the doors to the storage room?

RF – The building requires 2 means of egress. The primary one is through the vestibule. There is a first-floor exit door behind the stairs. So, there are 2 means of egress and they are remote as possible. When it comes to egress from an assembly use building, we are allowed to have an egress through an adjoining space as long as it is not the kitchen. We will post exit signs.

LB – In the event of an emergency, how will these doors that are in the storage room go to the exterior be available. I would imagine that they would be kept locked.

RF – Panic hardware. Every exit door is fitted with panic hardware.

LB – Thank you.

DF – When you have customers that come through the new vestibule into the bar area and they want to sit outside, what is their path to the outside.

RF – That is a Michael question.

MM – It is basically the same as it is now. You would go up 2 steps by the bathroom right now and then out through this new storage area.

DF – So there will be a partition so people would not be walking through the actual storage area.

MM – Correct.

JL – The upstairs apartment will have only one means of egress.

RF – Yes, it is required to have only one. The bedrooms will have egress windows that is 5.7 sf. of free area to comply with all those provisions but as far as a means of egress it is required to have one.

MF – Any other questions for this witness? None noted. Alright Councilor, do you want to move on to your engineer?

AL – Okay, Robert Martucci, PE would you provide us with the spelling of your name and qualifications?

RM – Robert Martucci, M-A-R-T-U-C-C-I. I am a graduate of New Jersey Institute of Technology, class of 2001. I received my professional engineers license in 2009. I have experience with Van Cleef Engineering with over 30 years of experience of Site Plan and Capital Project Engineering. I have been on, and currently serve as municipal engineer in 5 towns and board engineer for Milford's joint land use board and Glen Gardner's joint land use board, and an alternate engineer with Holland Township land use board. I have testified for both the public and on behalf of public and private clients. I currently own Martucci Engineering where I am the principal owner and have been since 2019. It's a pleasure to be here.

AL – Does anyone have questions of Mr. Martucci and would accept him as an expert in the field of civil engineering?

JL – We accept his credentials.

AL – Okay, Robert you have a revised preliminary and final site plan so we will turn it over to you.

RM – So I have done some revisions based on a completeness review letter from Mr. Hansen, the latest revision dated June 28, 2023. The cover sheet gives me the updated certified list of property owners and the location. (Mr. Martucci shared the screen with his drawings). The second sheet is the site plan of record that was currently revised. The first item I wanted to discuss, and address, is the current track line which is encroaching on Barbertown-Point Breeze Road and County Rt. 519. So, the track line as it states on the drawing is encroached. It would be prudent for us to do some sort of dedication to the township as an easement or rights to the public road at some offset distance. Previously it was shown to be a 25-foot dedication that would encroach in the proposed vestibule. And the county had a similar encroachment with their addition to the existing restaurant. So, what I did in this revision is to propose a 20 foot right away dedication for the township road and propose a 33 foot right away dedication for the county road. Currently the County Planning Board has my application which I submitted last week along with my site plan. I have yet to hear what their comments would be. It would probably be the same as the township I presume. Mr. Hansen wrote a review letter stating that he would like the 20-foot dedication offset from the center line of Barbertown-Point Breeze Rd., which I'm willing to accept and do as part of any condition revisions to the plan.

RM – Currently as the site exists, we have the 2-story, frame structure which is the restaurant and the apartment area. We do currently have a one-story frame structure which would be the dry goods storage. It doesn't really show on this plan but there is a concrete sidewalk that runs along here, turns a 90-degree angle, and goes to the stairway up to the apartment. It's a convoluted way of getting up to the apartment but that is the current access. Then we have the one-story frame structure here that apparently looks like the cold room. There is a tent in this area that is currently existing. There are a couple of out buildings. The parking area is a mix of gravel and road stone and some pavement millings mixed in. So that's currently the site plan. We have 2 driveways coming in. There is an overhead power pole with a pole mounted light and another utility pole. As far as roadway drainage

goes there are swales here with 12-inch pipes and a swale that continues, there are outlets across the road which doesn't show on this plan but that's essentially the drainage.

RF- There is a nice decorative metal fence in the area I am pointing out and has a gate. There are several manhole covers and assume it is for the septic system and is there a propane tank?

MM – The propane tank is inside the fenced area.

RF – Okay so there is no underground propane tank but currently the restaurant is served by propane, correct?

MM – Yes.

RF – The septic system is a mounded system. There is a permit in the process of getting transferred, the owner transferred over with the state, and we are working with the state to do that as well. The architect wants to put a vestibule here, do an addition to this area here with better access to the apartment addition and tack on this area here and build the pergola. Currently there is no ADA access, so we are going to add a paved area here with bumper blocks and 2 ADA parking spots and the ramp to the vestibule. I did provide details for the ramp as far as accessibility to fulfill compliance with the ADA Code. I will be providing a revised plan based on Engineer Hansen's comment on this area behind the ramp of how it will drain, which I need to get more survey information for that in order to accommodate that along with providing an accessible route to this pergola which will be shown on the revised site plan.

RM – As far as zoning criteria is concerned, we do have some pre-existing non-conforming items on the principal structure. We have some front yard setback where 50 ft. is required, 24.8 is existing and proposed since we are not doing anything with the principal building. 36.2 ft. from Rt. 519. We have 2 front yards here. There is an existing non-conforming side yard at 36.2 ft. We do need a variance for the 43 ft. distance from County Rt. 519. That is the distance from the property line to the pergola where we need a distance of 75 ft. The minimum distance between buildings needs a variance. We have 5.3 ft. existing, and 20 ft. is required. Then there is a lot coverage issue with maximum building coverage. With the pavilion we're at 2.2% with our accessory building. Originally, we're at .67% so adding that would get us into a variance for the maximum building coverage itself. Going on to parking spaces, we comply with the ordinance, and we are proposing 32 spaces. The building coverage goes impervious. Our Delta we're running at 492 sf of impervious.

RM – Does anyone have any questions for me, or do you want me to continue?

DF – For the ADA ramp, is that enclosed in any way with a roof or sides?

RF – There is no roof on the ramp.

RM – There is no roof on the ramp itself.

MF – Mr. Martucci, can you confirm because the ordinance says that expansion of an existing restaurant is a conditional use. It looks like you meet everything easily including the parking requirement. Can you confirm on the record that neither access driveway that mentioned is within a hundred feet of the intersection of the two roads. If that is the case, then you definitively don't need a variance relief from the conditions in the ordinance.



RM – The driveway entrance closest to 519 is scaling at 120 ft so we are in good shape there.

MF – OK, thank you. That was my only comment.

RM – So on to Mr. Hansen's letter. Items 1 and 2 were addressed by others; Item 3, the survey will be provided to Mr. Hansen. The required dedication will be dimensioned from the center line of Barbertown-Point Breeze Road. That's acceptable and we'll do that and revise the drawing accordingly.

JH – If I can jump in real quick, Rob, I think if the board's comfortable with it, we'll leave the width of the dedication open at this time until we get a chance to see what, how the county is going to address the dedication and then how the municipal road will dovetail into that dedication. So, if the board is comfortable leaving it up to us, we can make that the condition.

RM – Yes that will work. Item 4 was addressed by Ralph. Lighting levels do comply. I went out with a night light meter during an off night with just the lights on there so there was no interference. Loading requirements - this is a very good point because the ordinance does note a requirement for a minimum of 12 ft. wide by 60 ft. long parking space for loading and unloading. What I would ask for is a waiver of that requirement provided that Mr. Marinelli's establishment only does deliveries off-hours and I think that is what he said. I would be asking for a waiver from the 12 x 60 space.

JH – Yeah, I don't have an issue with that. If the board doesn't that would just be then incorporated in any approving resolution the board may make.

MF – And the standard for the board is just if it's reasonable. The proofs that they have to demonstrate for a variance if we're talking about a design waiver exception such as the size of a loading space, if the applicant demonstrates to the board, it has a reasonable alternative, the board can waive the requirement.

JL – OK.

RM – There things from the county right away to propose going in. I had 43 feet offset from the corner, but I'll spruce that up with the revised drawing.

JH – Yeah, whatever the county requirement of the dedication comes to be, just measure it to that.

RM – Okay, so landscaping, I think it was the board planner who brought up a good point oof this lawn area and putting some shrubs in.

JH – I talked to Dave Banisch and he said that would be if the board agreed would be the most logical place to do some landscaping, you know would add a little bit of interest on that side of the road and then also perform as some type of protection from the residences across the street from the lights and headlights in the parking lot perpendicular to Barbertown-Point Breeze Road. If the applicant would agree to that and the board was comfortable with it, that would really be our landscape recommendation.

RM – Okay.

JL – Is like an arborvitae or something like that between the driveways?

JH – I think it might be a little lower than that. The whole idea was to really have something that might grow up to about a 4-foot-high level but nothing that would grow too big. I don't think you would want it to look like a manufactured green wall or anything like that.

RM – Same with number 9.

JH – Number 9, I think takes care of itself if the applicant agrees to the shrubs along Barertown – Point Breeze Road. This goes away.

RM – So there is the employee parking over here and there is parking spots, we have 6 spots here without wheel spots. The idea behind that was to allow the employees to park while the restaurant is open. When the restaurant closes down and everybody cleans up, the employees should be able to egress the site. That was the explanation for the comment. Obviously, if there's an emergency that an employee has to get out, surely patrons wouldn't mind someone noting can you move your car so we can get an employee out for an emergency.

JH – Yes, I think that makes sense and then you know that would be incorporated into any improving resolution so that those spaces really be reserved for employee parking. There are stacked spaces in there, so you know the good news is that it does limit the amount of impervious covers that you really need for the whole parking scheme because you don't have that full driveway behind there. If the board is comfortable with that, I think an appropriate relief would be incorporated in the resolution.

RM – OK.

DF – Quick question with the tenant parking. Is a tenant parking in the general car parking and do they have a limit to the amount of cars they could have? Limited to 2 cars? 6 cars?

RM – They're given two spots that means they would meet the site standards for residential and they would, you know, just park wherever there is an open space. If they are handicapped, obviously they would be parking in the handicap spot, but they'll have a limit to 2 cars for a 2-bedroom apartment that seems adequate.

MF - It's prescribed for an RSI's., how many car parking spaces that they are required to set aside, and the ordinance specifies for the restaurant use. They are conforming with the 32 spaces for the 2 separate uses added together residential and the restaurant.

RM – Thank you. Item 11 we will provide additional grades. I put a note on the drawing, no construction begins until further detail. I just need more shots there, John. I need more shots in that area, and I need to shoot the area between the pergola and ADA to show a path for that as well. So that will be part of a revision to be done for resolution compliance if it's acceptable to the board.

JH – Yeah that is fine with me.

RM – Okay, as far as utility services it's a well/septic system. There is grease, there are dumpsters shown for solid waste. The propane tank itself wouldn't need any modification to any of the utilities. I don't see any other

mods for these additions here. It looks like the existing pen is lighted. There are existing lights there so I guess the services are adequate for that.

RM – Hunterdon County Planning Board - we submitted that last week and we'll get comments from them. Item 14, yes, the as-built survey once we finish the accessible routes, I will confirm they meet the codes and certify that to John the township engineer and submit the as built plans for review and inspection so yes that will be done.

JH – That takes care of my letter. I don't have anything else for Mr. Martucci.

AL – Mr. Flynn, could we mark John's letter as B-1, please?

MF – If you like, that's your preference. It was provided to the board 10 days in advance so if you prefer to mark it, we can.

AL – Yeah, I would. It would be easier to refer to in the resolution that way.

MF – Okay.

RM – With that said, the variance requirements I noted, there are some variances that need to be identified and documented on the resolution. That concludes my testimony and if anybody has any questions.

MF – Do any board members have questions for the engineer?

DH – No.

MF – Do any board members have any questions of any of the witnesses before we open the matter to the public?

LB – I have no more questions.

DH – No none here.

DF – None here.

JL – None here either.

MF – Okay, so hearing that I would like a board member to make a motion to open the public portion of the hearing.

DH – I'll make that motion.

MF – David. Do we have a second?

LB – I'll second that.

MF – Thank you, Leslie. All in favor say "AYE."

(All Board members present except Cynthia Ostergaard who is recused, said AYE).

MF – Okay, any members of the public wishing to ask questions of the applicant or any of the witnesses can come forward now. And in addition, if you wish to comment on the application, this is your time, before any comments, you'll have to be sworn in because testimony is taken. So, at this point, I'd ask any members of the public who are on the Zoom in the audience to come forward and state your name and address for the record.

(No comments from the public).

MF – Okay, hearing none, I'll ask a board member to make a motion to close the public portion of the meeting.

DH – I'll make that motion to close the public session.

JL – I'll second it.

MF – Okay, great. All in favor say "AYE."

(All Board members present except Cynthia Ostergaard who is recused, said AYE).

MF – Alright. Okay, so council, I'll give you the opportunity to make summation otherwise we can turn it over to the board for deliberation.

AL – Thank you very much. I regrettably am not familiar with the restaurant, but I probably will be in the near future, and I appreciate the fact that the board is willing to work with this applicant to address the improvements that meet several of the goals. One would be that accessory affordable housing unit designated low income also ADA compliance for purposes of access, variance relief that Mr. Martucci outlined, Preliminary & Final Site plan, subject to conditions of approval that I'm sure your board attorney will subject to conditions of approval that I'm sure your board attorney will list shortly. That's all I have.

MF – Okay, great. I'll make a quick summation of the application for the board. The applicant in my view, if I was advising the board, has demonstrated that they meet the conditions of the ordinance to be permitted conditional use and therefore the applicant does not require any use variance relief. So, 4 voting members as we said is sufficient. The board would need a simple majority of those 4 members so three affirmations to pass to vote to approve the application. The limited bulk variances are relating to the setback of the pergola, building coverage and the minimum distance between buildings in terms of conditions of approval, they basically stipulated to the items in John's memorandum, so as we go through them, none of those were disagreed upon by the applicant. So, a full stipulation to that memorandum with the one revision being that the applicant will be submitting the specific footage relating to the dedication of the township road to its professionals. After the county weighs in on their portion since the property does front along the county road, the applicant will be required to comply with all state regs and the ordinance for the accessory affordable housing unit, those are listed in the ordinance and under the regulations then the applicant will also be required for the, we'll call it the remodeling of that apartment unit, they'll be required to procure all appropriate permitting from the township in order to update that unit. Those are really the only specific conditions that I have, so at this point I would turn it over to the board to deliberate on the application.

## **DELIBERATIONS**

JL – Would anybody like to go first? Cynthia?

MF – Cynthia is recused.

JL – Oh, sorry. Leslie?

LB – Well, I think I'm inclined to approve it. The only concerns I have have been addressed. I don't see there being any, with the exception of the storage building which seems attached to the original restaurant. It doesn't seem to be a significant change, so I don't have any. All my pressing concerns were addressed.

MF – Jim or both Davids.

JL – Dave Hewitt?

DH – Thanks Jim. No, I had no problem. I think it's been addressed by our attorney, and I was supportive of a motion to approve it based on all his recommendations.

JL – Okay. I feel the same way. Alright. It's very little impact and I like everything that's been done with all the exceptions.

DF – With the other board members, I am leaning towards approval also. It's a very old building, very difficult to modernize and clean up. The drawings look like they are doing a very good job for what you're starting with. So, I am in support of the upgrades.

MF – Okay, would anybody like to make a motion?

DH – I'd make the motion that we approve the application with our attorney's modifications and conditions.

MF – Do we have a second?

LB – I'd second that.

MF – Okay, can we have a roll call, Karen?

### **Roll Call Vote:**

J. Laudенbach	<b>Yes</b>
D. Hewitt	<b>Yes</b>
C. Ostergaard	<b>Recused</b>
L. Bella	<b>Yes</b>
D. Frank	<b>Yes</b>

(The motion passes and the application is approved).

AL – I do have one request on behalf of Mr. Marinelli. There are a number of permits he would like to start working on recognizing that the zoning officer and/or building department wouldn't grant the permit without the resolution in hand. If there is no objection to that he would like to start applying for the permits.

MF – That is something that we’ve given latitude to applicants in the past. John, do you have any opinions on that?

JH – I have no objection to that, you know, as long as the applicant understands the risk for appeals and things like that but there’s no issue here.

AL - Thank you very much. We appreciate it.

MF – Okay so that was the only public hearing of the meeting.

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**APPROVAL OF MINUTES:**

J. Laudenbach asked if there were any questions or comments, additions or corrections to the July 12, 2023 BOA Meeting Minutes. None noted. M. Flynn asked for a motion to approve the Meeting Minutes. It was moved D. Hewitt, seconded by L. Bella to approve the Meeting Minutes of July 12, 2023.

M. Flynn said they could do an all-in favor vote provided that any member who wasn’t here in July but is here tonight abstains.

All members present voted **AYE** with the exception of Leslie Bella who **ABSTAINED**.

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**CORRESPONDENCE/REPORTS:**

M. Flynn said it looks like we have 3 months of Zoning Reports. He confirmed that the July 13<sup>th</sup> Planning Board Meeting was cancelled for a lack of agenda items. He asked if there were any comments on any of the correspondence? None noted. The Board Secretary said that we did not get the July Zoning Reports at this time. No one had any other comments.

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**ADJOURNMENT:**

M. Flynn asked for a motion to adjourn. D. Hewitt made a motion, seconded by D. Frank to adjourn the meeting. All members present voted **AYE**. The meeting ended at 8:09 pm.

All meeting votes were unanimous with a vote of 4:0 with a sustained quorum. There were no controverted issues and there was no conflict of interest for any of the Board members in attendance.

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Respectfully submitted,

Karen Radcliffe  
BOA Secretary