

RESOLUTION
TOWNSHIP OF CHERRY HILL ZONING BOARD OF ADJUSTMENT
APPLICANT'S NAME: EAGLE ONE REAL ESTATE PROPERTIES, LLC
APPLICATION NO.: 20-Z-0006 (PBC 10032)

WHEREAS, the Applicant, Eagle One Real Estate Properties, LLC, as owner of the premises in the Township of Cherry Hill, County of Camden, State of New Jersey, located at 312 Kresson Road and designated as Block 409.01, Lot 7 on the tax maps of the Township of Cherry Hill, has filed an application for a minor site plan approval with bulk c variances as well as for a Certificate of Nonconformity or, in the alternative, a use variance to permit the use of a second floor residential apartment above the restaurant together with a series of submission and design waivers.

WHEREAS, after a public hearing via video conference held on August 6, 2020, the following initial findings of facts were made, to wit:

1. The Applicant, Eagle One Real Estate Properties, LLC ("Eagle One") has proposed to renovate the existing vacant restaurant (the former La Campagna/Farmhouse Restaurant) facility located at 312 Kresson Road. To do so, the Applicant has requested a minor site plan approval and has proposed a 575 square foot expansion to the existing kitchen, add a 180 square foot walk-in freezer attached to the existing building, to relocate an existing shed elsewhere on the site and to use the second floor and the attic space as a two bedroom residential apartment as well as to provide additional seating for its restaurant patrons. The Applicant has also proposed other site improvements including lighting, parking, outdoor customer seating and circulation.
2. The subject site is approximately 0.72 acres in size and is located in the southwestern portion of the Township on the south side of Kresson Road, just east of Brace Road. The properties adjacent to the site along Kresson Road are located in the Highway Business (B2) Zone. The properties directly across Kresson Road which include Borton's Mill Trails and soccer fields, are located in the Institutional (IN) Zone. Nearby residential neighborhoods include Batesville, Kresson Woods and Evan Mills Apartments.
3. A detailed account of the site's history and prior applications is set forth on pages 1 and 2 of the Department of Community Development review letter dated April 24, 2020, which is incorporated herein by reference.
4. The property is located in the Highway Business (B2) Zoning District. The proposed restaurant use is a permitted use in said zone. However, the proposed second floor and attic use as a residential apartment is not a permitted use in the B2 Zone.
5. As indicated, the Applicant has proposed a minor site plan to use the first floor of the building for a restaurant use with a maximum of 56 seats; to use a portion of the second floor for additional

restaurant seating of a maximum of 28 seats and to provide an outdoor seating area with a maximum of 28 seats. The Applicant has proposed, however, that the total restaurant occupancy will never exceed or utilize more than 90 seats combined for the three seating areas. The Applicant has also proposed to use a portion of the second floor and/or attic space as a two bedroom residential apartment. To do so, the Applicant has requested either a certificate of nonconformance pursuant to N.J.S.A. 40:55D-68 or a use variance pursuant to N.J.S.A. 40:55D-70d(1).

6. With regard to the minor site plan application, the Applicant seeks bulk variances pursuant to N.J.S.A. 40:55D-70c(2) for the following relief:
 - a. From Section 415.F to permit a lot depth of 97.34 feet where a minimum lot depth of 150 feet is required. This represents a preexisting nonconforming condition not created by this application.
 - b. From Section 415.F to permit a rear yard setback of 8.16 feet for the proposed restaurant kitchen expansion, where a minimum rear yard setback of 20 feet is required.
 - c. From Section 415.F to permit a rear yard setback of 8.82 feet for a shed, where a minimum rear yard setback of 20 feet is required.
 - d. From Section 511.B.2 to permit 34 parking spaces, where the minimum parking requirement for a restaurant and residential use combined is 37 parking spaces.
 - e. From Section 517.D.23 to permit a changeable copy sign for the restaurant establishment where changeable copy signs are not permitted for a restaurant use.
 - f. From Section 517.D.4 to permit a LED changeable copy section of the freestanding sign where such changeable copy signs as proposed are prohibited.
 - g. From Section 517.G.3.a.i to permit a façade sign where no street frontage exists. (This site has frontage on Arbor Avenue, however, the site history reflects that a portion of Arbor Avenue was vacated by the Township in 1984. It is unclear whether the vacated portion of Arbor Avenue is the frontage of this site or is another location of Arbor Avenue. If the site's Arbor Avenue frontage was not vacated, then the façade sign would be permitted by right, otherwise, a variance is required.)
7. The Applicant has requested a Certificate of Nonconformity pursuant to N.J.S.A. 40:55D-68 to permit the second floor residential apartment to remain consistent with the site plan approval, which the Applicant alleges was granted for the restaurant in 1986, and

which site plan approval permitted a separate single family dwelling residential use on the property and which dwelling has subsequently been demolished. The Applicant, however, alleges that the two bedroom second floor apartment was also in use at that time and alleges there has been no intent to eliminate or abandon its use.

8. Allen S. Zeller, Esquire, the Zoning Board Attorney, advised the Board that the Applicant had the burden of proof to produce evidence to establish exactly what the use was for this apartment at the time of the adoption of the zoning ordinance in 1976, its character, its extent, its intensity and its incidence of use at that time as well as in 1986 when the single family use was approved. He stated that these proofs include whether the original use was protected by the statute, has been continuing and whether the Applicant can trace the nonconforming use in question as this Applicant now intends to use the apartment back to the time prior to the change in the ordinance. He stated that the Applicant must show that the lawful use was not sporadic or occasional and that the use was lawful under the Zoning Ordinance in effect at the commencement of the use. As well, he stated the Applicant must prove that the use has not been abandoned during the period of time from when it became nonconforming and the Applicant must indicate the prior owner's intention that the proposed use remains consistent with the prior owner's actions. Finally, he further advised that if the required proofs are not available, the Certificate of Nonconformity should not be granted as may be permitted by N.J.S.A. 40:55D-68.
9. As an alternative to the Certificate of Nonconformity, the Applicant has also requested a use variance pursuant to N.J.S.A. 40:55D-70d(1) and from Section 415.B to permit a single family residential dwelling in the B2 Zone, where such use is not specifically permitted.
10. The Applicant was represented by Stuart A. Platt, Esquire of Platt & Riso, P.C.
11. The Applicant presented the testimony of the following witnesses at the public hearing:
 - a. Alex Daku, Owner and Operator of the Restaurant and member of of the Applicant
 - b. Joseph Mancini, PE, PP
 - c. David Brand, Architect
12. A complete list of the plans and documents submitted by the Applicant in support of this application is specified on page 2 of the Department of Community Development review letter dated April 24, 2020. In addition, the Applicant introduced the following exhibits at the public hearing which were made a part of the record:

- A-1 Minor Site Plan
 - A-2 Floor Plan of Restaurant and Additions
 - A-3 Elevation of the Building
 - A-4 Aerial View of Site
 - A-5 Seating Plan
 - A-6 Additional Seating Plan
13. Comprehensive review letters were issued by the Department of Community Development dated April 24, 2020 and by Environmental Resolutions, Inc., the Zoning Board Engineer, dated June 25, 2020. Said letters were marked into the record, are on file with the Zoning Board Secretary and are incorporated herein by reference.
 14. The Zoning Board presented the testimony of Natalie Shafiroff, PP, AICP, of the Department of Community Development and C. Jeremy Noll, PE, CME, the Zoning Board Engineer, both of whom testified with regard to their respective review letters, which were made a part of the record in evidence in this matter.
 15. No members of the public testified with regard to this application.
 16. Public notice of the hearing was provided in accordance with the requirements of the Municipal Land Use Law, N.J.S.A. 40:55D-12 and by the Township of Cherry Hill, which also published a separate notice advising the public that the hearings in this matter would be held by video conference. Said notice provided information to the public as to how to participate in said video conference which was held via the Zoom platform.

WHEREAS, Stuart Platt, Esquire, the attorney for the Applicant, introduced the application and represented that Mr. Daku purchased the former La Campagna Restaurant on Kresson Road and intends to relocate his existing restaurant, Amici, to this site and that he will retain his existing location on Kresson Road for use as a catering facility. Mr. Platt stated that the Applicant seeks minor site plan approval for a 575 square foot kitchen expansion, a 180 square foot walk-in freezer to be built upon a concrete pad, the relocation of an existing shed and the continued use of a two bedroom residential apartment on the second floor of the building. Mr. Platt also represented that the restaurant will have a maximum of 90 seat capacity which will include 56 seats on the first floor, 28 seats on the second floor and 28 seats in an outdoor dining area.

WHEREAS, Mr. Platt stated that the Applicant seeks bulk variances for parking, rear yard setbacks, to install an additional façade sign facing Arbor Avenue, as well as an LED changeable copy freestanding sign. Finally, Mr. Platt stated that the Applicant is requesting approval for a Certificate of Nonconformity to permit the continuing use of the second floor residential apartment or, in the alternative, for a use variance to permit said residential apartment use. Mr. Platt represented that the apartment use had not been abandoned nor was there ever any intent to abandoned said use.

WHEREAS, Alex Daku testified that he is a member of the Applicant and is the owner and operator of Amici's Restaurant, which is currently located in the shopping center on Kresson Road directly to the east of this site, which he opened in 2005. He stated that he has been in the restaurant business for 25 years and that he purchased this property in December, 2019.

WHEREAS, Mr. Daku testified that the new restaurant will have a maximum of 90 seats, which is comprised of 56 seats on the first floor, 28 seats on the second floor for a total maximum indoor of 84 seats. In addition, he will have an outdoor seating area containing a maximum of 28 seats. He acknowledged that this provides a total of 112 seats, which is more than the maximum occupancy permitted of 90 seats. He testified that he will close off seating in the three sections to insure that there will never be in excess of 90 patrons utilizing the restaurant at any one time. He stated that the second floor will house overflow seating on weekends and allow for smaller private parties.

WHEREAS, Mr. Daku testified that the restaurant does not have a liquor license and that people will bring their own liquor or wine. He further stated that the hours of operation are 10 a.m. to 11 p.m., seven days per week, that deliveries occur in the rear of the building between the hours of 9 a.m. and 1 p.m. and occur by a smaller box truck and that no tractor trailers deliver to this site. Finally, he stated that trash removal will occur in the morning between the hours of 8 a.m. to 11 a.m.

WHEREAS, with regard to the second floor two bedroom apartment, Mr. Daku stated that the apartment will likely be utilized by either himself or his employees and that the apartment will be totally separate from the second floor dining area with its own bathroom and kitchen facilities. He stated that two of the parking spaces in the rear of the building will be designated for the residents of the apartment. He further stated that there is a third floor attic area which will be refurbished and converted into a bedroom that will comprise the two bedroom apartment; that it will not be a 3 bedroom apartment.

WHEREAS, Mr. Daku testified that when he purchased this property in December, 2019, he recognized that he would have to expand the existing kitchen to provide for additional burners and that the restaurant required a 180 square foot walk-in freezer as part of the expansion. He stated that one of the three parking spaces in the rear will be reserved for a delivery area.

WHEREAS, Mr. Daku testified that he proposes an LED changeable copy sign which can display certain items related to the restaurant use to attract more customers. He stated that the sign will remain static, that there will not be any flashing, blinking, twinkling, animated, moving or projected objects on the sign of any type at any time. He stated that the sign will remain static and the information will not change more than once per 24 hour period.

WHEREAS, Mr. Daku acknowledged that he has from 8-10 employees, including himself in the restaurant. He acknowledged that previously when he purchased the building, the second floor apartment was not occupied or in use and that the prior restaurant operator also used a portion of the second floor as a cooking school. He represented that he will not utilize the second floor for a cooking school; rather, it will be for additional seating for small private parties or overflow indoor seating.

WHEREAS, Mr. Daku testified that he will not use his existing restaurant location for excess or employee parking. It will be used as a catering facility.

WHEREAS, David Brand testified that he is a registered architect licensed in New Jersey and that he prepared the architectural renderings, elevations and seating plans which were marked Exhibits A-3, A-4, A-5 and A-6. He testified as to his educational background and he stated that he has testified before other Boards throughout New Jersey. The Zoning Board accepted his qualifications as an expert witness.

WHEREAS, Mr. Brand testified as to the proposed apartment on the second floor and acknowledged that he will revise the plans to show that a second bedroom will be created on the third floor attic as testified to by Mr. Daku. He stated that the project will comply with all building codes and fire codes. He further stated that the seating plans show that there are 56 seats on the first floor and 28 seats on the second floor, separate and apart from the apartment area, for a total of 84 seats. He also stated that there will be a maximum of 28 seats for outdoor seating when weather permits. He stated that the Applicant will regulate the indoor and outdoor seating so that they will have no more than 90 total seats in use at any one time.

WHEREAS, Mr. Brand testified that the second floor apartment will have an interconnected fire alarm system, that the stairway to the second floor has a one hour fire rating and that the restaurant and the apartment will meet all building and fire codes and that occupancy must be approved in advance by the Cherry Hill Fire Marshall. He further stated that the restaurant will be ADA compliant and accessible to the second floor although there is no elevator in the building. He further stated that the apartment will have a separate entrance, a separate bathroom and a separate kitchen, that the third floor is approximately 300 square feet and that he will revise the plans to include the third floor bedroom and reflect only one bedroom on the second floor.

WHEREAS, Mr. Brand testified that the expansions for the kitchen and freezer will match the existing outdoor siding and the existing roof materials and that two of the parking spaces in the rear will be signed and designated as "resident only."

WHEREAS, Joseph Mancini, PE, PP, testified that he is a professional engineer and a professional planner licensed in New Jersey, that he has testified before this Board and many other Planning and

Zoning Boards in New Jersey and has been qualified as an expert. The Board accepted his qualifications as an expert witness in this matter.

WHEREAS, Mr. Mancini identified Exhibit A-1 and gave an overview of the site area, the surrounding roadways, the access drive, the surrounding zoning districts and the existing conditions. He testified as to the details of the proposed additions, the parking layout, the shed relocation and the signage requests for both the façade signs and the freestanding sign.

WHEREAS, Mr. Mancini testified that there are 31 parking spaces on the east side of the site, plus three parking spaces in the rear. He stated that the kitchen expansion of 575 square feet and the freezer expansion of 180 square feet, are located on the west side by Lantern Lane. He testified that these additions will not increase the impervious coverage and that the 90 seat limitation for this building will remain with 56 seats on the first floor, 28 seats on the second floor and 28 seats for outdoor seating. He represented that there will not be excess occupancy of more than 90 seats in any of the three sections at one time.

WHEREAS, Mr. Mancini testified that the Applicant will comply with all of the comments and conditions set forth in the Environmental Resolutions, Inc. review letter of June 25, 2020. The Applicant will also comply with all of the comments and conditions contained in the Department of Community Development review letter of April 24, 2020, except as specifically noted for the signage as revised.

WHEREAS, Mr. Mancini testified as to the requested bulk variances and stated that the rear setback variance requested for the kitchen expansion will be 8.16 feet, whereas the existing setback is 8.4 feet. He stated that this change is de minimis and does not have any detrimental effect on this site or the surrounding area. With regard to the setback for the shed, he stated that the proposed setback will be 8.82 feet, whereas the existing shed setback is only 2.18 feet. This represents an improvement over the existing condition, does not cause any detriment to the surrounding areas and that the benefits to the variances will permit the reuse of a vacant property and return it to a functional restaurant that has already existed in the Township in another location for many years.

WHEREAS, with regard to the sign variances, he testified that the façade sign on Arbor Avenue is really a technical variance since Arbor Avenue may or may not have been formerly vacated. If Arbor Avenue was not vacated then this façade sign is permitted. He stated that the size of the sign meets the ordinance requirements as does the façade sign facing Kresson Road. With regard to the changeable copy LED sign proposal, he stated that the LED portion will be located on the pylon sign just below the name of the restaurant. He stated that the signs comply with the requirements of the Municipal Land Use Law, N.J.S.A. 40:55D-2, subsections (a) and (i), and that the signs provide identification, they are in scale, are consistent with the area and that there is no substantial impairment created. He further stated that the Applicant has agreed not to change the copy on the LED sign more than one

time per day and that it could also be utilized for public announcements or emergency announcements as requested by the Township. He further testified that the Applicant has agreed to turn off the LED sign and other lighted signs during the time period that the restaurant is not in use and that the LED will advertise only the food choices provided by the restaurant.

WHEREAS, Mr. Mancini testified with regard to the parking space variance requested which will provide a total of 31 parking spaces for customers, plus 2 spaces for the residents which will be specifically identified behind the restaurant and one space for delivery use. He testified that this number should be sufficient and is only three spaces less than the required 37 spaces.

WHEREAS, Mr. Mancini testified that should a Certificate of Nonconformity not be issued, the criteria and standards for a use variance for the two bedroom apartment in the B2 Zone are appropriate in that this residential use is particularly suited and meets and criteria of the Municipal Land Use Law, including subsections a, g, i and m. He stated that, in his opinion, this allows for the reuse of a vacant site, that the ordinance currently permits for a residential use in the B1 Business Zone, although not in the B2 Zone, and that there are no substantial detriments to the adjoining property.

WHEREAS, Ms. Natalie Shafiroff, the professional planner employed by the Department of Community Development, introduced Exhibit ZB-1, which was a copy of the site plan approved by the Zoning Board in 1986 and which showed the layout of the restaurant along with the separate residential dwelling which has since been demolished. She testified that in her review of this site she does not believe that the apartment on the second floor was utilized consistently for residential purposes, that at one point it was utilized as part of a cooking school operation for the previous restaurant and that, in her opinion, the requirements for the issuance of a Certificate of Nonconformity have not been met. She further testified, however, that she does not object to this second floor space being utilized for residential purposes moving forward and that a use variance would, therefore, be appropriate. Finally, she testified that she has no objection to the other bulk variances requested, although she acknowledged that there are no other LED changeable copy signs in existence in this area of the Township.

WHEREAS, Mr. Platt inquired as to whether there would be a requirement concerning the payment of an Affordable Housing Fee as a result of the granting of a use variance for the apartment unit and, if so, he requested that the Zoning Board Resolution contain a statement waiving the Affordable Housing Fee.

WHEREAS, Mr. Zeller advised the Board that Affordable Housing issues are addressed by the Cherry Hill Township Affordable Housing Plan which was submitted to the Superior Court of New Jersey and, to his knowledge, received approval from the Court. Thus, that issue is governed by the requirements of the Court Order approving said plan. He stated that affordable housing ordinances and resolutions have to be

adopted by the Township and that the Zoning Board does not have the authority to grant a waiver for affordable housing fees. He further advised that the Resolution submitted to the Zoning Board in this matter will contain a condition stating that "If required, the Applicant shall make payment of the Affordable Housing Fee and/or an Growth Share Obligation, in accordance with the current court orders, regulations and ordinances in effect at the time of the filing of the application."

WHEREAS, from the submissions made by the Applicant, the testimony and evidence presented by the Applicant and its professionals, the testimony of the Zoning Board professionals and based upon the entire record, the following further findings of facts and conclusions of law were made:

1. All of the initial findings of facts as set forth in Paragraphs 1-16 are hereby incorporated by reference herein as further findings of facts.
2. All of the foregoing **WHEREAS** paragraphs contained on pages 4 through 8 have been considered by the Zoning Board and the Zoning Board has given appropriate weight to said testimony, including the testimony of the expert witnesses in making their findings and conclusions of law.
3. The Zoning Board finds and accepts as credible the testimony of the Zoning Board Planner and Engineer and finds and accepts as credible the testimony of the Applicant's professionals/experts as testified herein. In making its decision, the Zoning Board has given appropriate weight to the testimony and representations made by the Applicant's witnesses including the Applicant's consent to the proposed conditions to be imposed in this matter and as to their expert opinions concerning the need and justification for the use and bulk variances requested. This analysis includes the positive and negative criteria for granting the use and bulk variances required.
4. The Zoning Board has reviewed and considered the relevant portions of the Zoning Ordinance, Municipal Land Use Law and burdens of proof required for the issuance of a Certificate of Nonconformity, particularly the testimony and opinion provided by the Zoning Board Planner, Natalie Shafiroff, who stated that she did not believe that the burden of proof required for a Certificate of Nonconformity set forth in the statute, N.J.S.A. 40:55D-68, and as placed on the record by the Zoning Board Attorney have been satisfied in this matter.
5. With regard to the requested use variance to permit the residential apartment on the second floor and attic of the restaurant, the Zoning Board finds that the Applicant has satisfied its burden to affirmatively prove, produce and introduce testimony and evidence sufficient to sustain its burden regarding the special reasons to grant the requested use variance as required by the Municipal Land Use Law, including N.J.S.A. 40:55D-2(a)(g)(i) and (m). The Board

finds and concludes that the Applicant sustained its burden regarding the positive and negative criteria of the statute to justify the requested use variance and that the positive criteria outweigh the negative criteria as set forth in the Municipal Land Use Law.

6. With regard to the requested bulk variances associated with the minor site plan approval, the Zoning Board finds and concludes that the Applicant has sustained its burden of proof and has testified as to the need and justification for the bulk variance and waivers in accordance with the statute and that the demonstrated benefits of the application with regard to this property are advanced by a deviation from the Zoning Ordinance requirement and that the purposes set forth in the Municipal Land Use Law have been met and satisfied, particularly with regard to adherence to the proposed conditions as hereinafter set forth.

NOW, THEREFORE, based upon the foregoing findings of facts, determinations and conclusions of law, including all of the testimony presented at the hearing, **BE IT RESOLVED** by the Zoning Board of the Township of Cherry Hill, New Jersey, that Application No. 20-Z-0006 (PBC 10032) by Eagle One Real Estate Properties, LLC, for the minor site plan approval with bulk variances and waivers and for a use variance to permit a residential use on the second floor and attic, are hereby determined as follows for the reasons set forth herein and on the record in this matter and subject to the following conditions:

1. The use variance requested pursuant to N.J.S.A. 40:55D-70d(1) and from Section 415.B of the Zoning Ordinance to permit a two bedroom residential apartment to be located on the second and third floors of the restaurant building in the B2 Zone where such use is not specifically permitted, is granted, by a vote of seven in favor and none opposed, subject to any conditions as hereinafter set forth.
2. The Applicant's request for the issuance of a Certificate of Nonconformity pursuant to N.J.S.A. 40:55D-68, to permit the continued residential use on the second floor of the restaurant building is hereby moot inasmuch as a use variance as noted above has been granted.

BE IT FURTHER RESOLVED, based upon the foregoing findings of facts and conclusions of law, including all of the testimony presented at the hearing, the minor site plan with bulk variances and waivers as set forth are hereby granted by a vote of seven in favor and none opposed, subject to the following conditions:

3. The following bulk variances requested from N.J.S.A. 40:55D-70c(2), associated with the minor site plan and use variance applications, are granted:
 - a. From Section 415.F to permit a rear yard setback of 8.16 feet to the restaurant kitchen expansion where a minimum rear yard setback of 20 feet is required.

- b. From Section 415.F to permit a rear yard setback of 8.82 feet for the relocation of the shed where a minimum rear yard setback of 20 feet is required.
 - c. From Section 511.B.2 to permit a total of 34 parking spaces where a minimum of 37 parking spaces is required.
 - d. From Section 517.D.23 to permit a portion of the freestanding sign to contain an LED changeable copy area for the restaurant use.
 - e. From Section 517.D.4 to permit a portion of the freestanding sign to include an LED changeable copy area.
 - f. From Section 517.G.3.a.i to permit a facade sign facing Arbor Avenue where no street frontage exists.
4. The bulk variance requested from Section 415.F to permit a lot depth of 97.34 feet where a minimum lot depth of 150 feet is required is recognized as a preexisting nonconforming condition. Thus, a variance is not required.
 5. The requested minor site plan approval with the approved bulk variances set forth above and the approved use variance set forth above as well as the requested waivers identified in the Community Development letter of August 24, 2020, are hereby granted subject to the following conditions of approval imposed relating to the minor site plan with bulk variances and the use variance:
 - a. All agreements, conditions and/or representations made by the Applicant are imposed upon the Applicant as set forth in this matter and as contained in the "WHEREAS" recital paragraphs of this Resolution, shall be fully satisfied by the Applicant in accordance with their terms.
 - b. The Applicant shall satisfy all of the comments and conditions set forth in the Department of Community Development review letter dated April 24, 2020 and the Environmental Resolutions, Inc. review letter dated June 25, 2020, in accordance with their terms and shall revise the plans to satisfactorily address said letters except as specifically noted on the record.
 - c. All other agreements and/or representations made by the Applicant as set forth in this matter shall be fully satisfied by the Applicant and the Applicant shall be bound by all exhibits introduced, all representations made and all testimony given before the Zoning Board in this matter.
 - d. The Applicant shall revise its plans to reflect that the residential apartment will be two bedrooms only, not three bedrooms; will be refurbished as shown on the plans and shall

contain one bedroom on the second floor and one bedroom and on the third floor/attic.

- e. The Applicant shall revise the plans to include a note that the said residential apartment shall include an interconnected fire alarm, the stairs shall be one-hour fire rated, and the apartment shall meet all building codes and fire codes as required by State law or municipal ordinances.
- f. The Applicant shall revise the plans to include a note that the Cherry Hill Fire Marshall shall inspect and approve all of the proposed construction prior to the issuance of a Certificate of Occupancy.
- g. The plans shall be revised to include a note that the maximum seating capacity of the restaurant facility shall be no more than 90 seats maximum at any one time; 56 seats on the first floor, 28 seats on the second floor and 28 seats in the outdoor seating area. The Applicant shall ensure that the variation of seating arrangements between the first floor, second floor and the outside seating area shall not exceed said 90 seats with the further restriction that at no time shall there ever be more than 28 seats occupied on the second floor, no more than 90 seats are in use at any one time and the Applicant shall close off sections to ensure that only 90 seats are in use in this regard.
- h. The Applicant shall revise the plans to include a note that two of the three parking spaces in the rear of the building shall be dedicated as parking for the residents only and that the Applicant shall install the appropriate signage by said spaces to designate them as resident parking only.
- i. The Applicant shall revise the plans to include a note that the Applicant shall comply with the Environmental Resolutions, Inc. review letter regarding landscaping comments and to clarify the size of the 273 square foot concrete pad for the freezer.
- j. The Applicant shall submit a letter of no interest from the Camden County Planning Board.
- k. The plans shall be revised to include a note that there will be only 1 freestanding sign at this location, that the LED changeable copy area of the freestanding sign shall include text only related to the restaurant use and the changeable copy area shall not contain any flashing, blinking, twinkling, animated, moving or projection sign of any type which presents an illusion of movement.
- l. The plans shall be revised to include a note that the LED sign lighting shall be turned off after closing of the restaurant on a daily basis and all site lighting shall be reduced to forty percent (40%) of the standard lighting in

compliance with Section 509.C.10.c of the Cherry Hill Township Zoning Ordinance on a daily basis.

- m. The LED changeable copy portion of the freestanding sign shall be permitted to only include the text of the certain type of items, food products and specials served in the restaurant or public service announcements as approved by the Department of Community Development.
 - n. The plans shall be revised to include a note that the text of the changeable copy portion of the freestanding sign shall remain static and shall not be changed or altered more than one time per day.
 - o. The Applicant is hereby advised that the size, location, placement of the signs shall be compliant with the Zoning Board Ordinance or the Applicant shall be required to return to the Zoning Board for further review and consideration of said nonconforming signs. The Applicant is hereby advised that no portion of the sign, including the changeable copy area, may display text that is prohibited by Section 517 of the Zoning Ordinance, including, but not limited to phone numbers, websites or laudatory language.
 - p. Sign illumination will be provided by downward lit exterior fixtures or internally lit incandescent bulbs, florescent tubes, metal halide or mercury vapor lamps.
 - q. All illuminated signs shall be property shielded and located so as to prevent glare or blinding effects upon motor vehicle traffic and so as not to cause a nuisance to residents in the area.
 - r. Signs capable of illumination including the LED changeable copy signs shall be turned off during the hours when the restaurant business is not in operation.
 - s. The Applicant shall revise the plans to include a note that no tractor trailer trucks shall be parked or unloaded on this site.
 - t. As applicable and if required, the Applicant shall make payment of the Affordable Housing Fee in accordance with the current court orders, ordinances, laws and regulations in effect at the time of the filing of this application.
6. The Applicant is hereby notified that prior to the issuance of any zoning permits:
- a. All taxes and assessments shall be paid on the property for which this application is made. The Applicant shall submit proof that no taxes or assessments for local improvements are due or delinquent on the property for which the application is

made.

- b. Any and all conditions made a part of this approval, including those noted by reference in any reports of any consultants to the Zoning Board or as set forth on the record at the Zoning Board hearing must be satisfied.
 - c. Zoning Approval must be obtained from the Department of Community Development.
 - d. The Applicant shall pay all required escrows, costs and professional fees associated with the application to the Department of Community Development within fourteen (14) days of receipt of a written request for payment of escrow funds. The failure to pay the required escrow funds within the fourteen (14) day period after receipt of written notice may result in the voiding of this approval. Negative escrow account balances shall incur interest at a rate of 1 1/2% per month.
 - e. Any required sign permits shall be obtained by the Applicant.
7. The Applicant shall obtain all necessary and required outside agency permits and approvals including, but not limited to the following:
- a. Camden County MUA
 - b. Camden County Soil Conservation District
 - c. Cherry Hill Township Fire Marshall
 - d. Cherry Hill Township Police Department
 - e. Cherry Hill Code Enforcement
 - f. Cherry Hill Engineering and Public Works
 - g. New Jersey American Water
 - h. Camden County Planning Board
 - i. Any and all other agencies deemed necessary.
8. The failure of the Applicant to comply with any of the conditions contained in this resolution will permit the Zoning Board, at its sole option, to rescind the approvals being granted by this Resolution and/or to advise the Township to revoke any permits which have been issued to the Applicant.

DATED: September 3, 2020

ZONING BOARD OF THE
TOWNSHIP OF CHERRY HILL

By: *Cosmas Diamantis*
COSMAS DIAMANTIS,
Zoning Board Secretary

CERTIFICATION

This Resolution of Memorialization being adopted by action of the Zoning Board on this 3rd day of September, 2020, is a true copy of the action taken by the Board at its meeting held on August 6, 2020.

ZONING BOARD OF THE
TOWNSHIP OF CHERRY HILL

By: *Cosmas Diamantis*
COSMAS DIAMANTIS,
Zoning Board Secretary