

**TOWN OF PHILLIPSBURG LAND USE BOARD RESOLUTION NO. 2022-2**

**RESOLUTION GRANTING PRELIMINARY AND MAJOR SITE PLAN APPROVAL AND  
BULK APPROVAL IN NO. 2021-1**

**Peron Construction, LLC – Applicant/Owner  
60 West Broad Street, Suite 201  
Bethlehem, Pennsylvania 18018**

**Block 2102, Lot 2.02  
170 Howard Street**

**Application #2021-1**

**WHEREAS**, Peron Construction, LLC, (“Applicant”) applied to the Town of Phillipsburg Land Use Board (“Board”) for Preliminary Major Site Plan Approval; Bulk Variance Approval pursuant to N.J.S. 40:55D-70(c); and any and all design exceptions and/or waivers (collectively “the Application”), for the construction of an industrial building of approximately four hundred and twenty thousand square feet (420,000’) on the property identified on the Town Tax Map as Block 2102, Lot 2.02, with a street address of 170 Howard Street, Phillipsburg, Warren County, with three hundred and fifty-two (352) passenger car parking spaces, eighty-eight (88) loading docks and thirty-nine (39) spaces for trailer parking and to raze the existing structures which are located on the properties known as 560 and 562 South Main Street and identified on the Town Tax Map as Block 2015, Lots 1 and 3, in order construct roadway improvements; and

**WHEREAS**, the Board having satisfied itself that proper notice was given to neighboring property owners and to all others entitled to notice, as well as publication pursuant to both the Town of Phillipsburg Code and to N.J.S. 40:55D-12, on or about September of 2021 and again on or about November of 2021 and again on or about December of 2021; and

**WHEREAS**, due to the public health emergency necessitated by the Covid-19 pandemic, beginning in March of 2020, pursuant to the Executive Orders of the Governor of the State of New Jersey and the existing laws of the State of New Jersey, public gatherings have been limited in size, space, location and duration; and

**WHEREAS**, due to the public health emergency necessitated by the Covid-19 pandemic, pursuant to the Executive Orders of the Governor of the State of New Jersey and the existing laws of the State of New Jersey, public bodies, such as the Board, are expressly authorized by law to conduct public meetings remotely through the use of audio and video technology; and

**WHEREAS**, due to the public health emergency necessitated by the Covid-19 pandemic, it was the decision of the Board that it was in the best interests of the Board, the Town of Phillipsburg, the Applicant and the general public for this Application to proceed without further delay, consistent with the

Executive Orders of the Governor of the State of New Jersey and the existing laws of the State of New Jersey; and

**WHEREAS**, the Board was of the opinion, after consultation with its professionals, that the Board could consider this Application remotely and that its consideration would not be impeded whatsoever by considering the Application remotely; and

**WHEREAS**, the Applicant appeared before the Board at a regularly-scheduled meeting on September 23, 2021, at which time the following Board members announced to the public that they would be recusing themselves from consideration of the Application: Chairman Willaim Duffy, Mayor Todd Tersigni and Robert Bencivenga; and

**WHEREAS**, the Applicant appeared before the Board at a regularly-scheduled meeting on September 23, 2021, at which time the Applicant requested certain temporary waivers from the Preliminary Site Plan checklist requirements, said waivers being summarized in the Board Engineer's September 21, 2021 review letter, and the Board having determined that said waivers can be granted and the Application was determined by the Board to be complete; and

**WHEREAS**, the Applicant appeared virtually before the Board again at a regularly-scheduled meeting on November 22, 2021, at which time the Board granted the Applicant's request to carry the Application to the January 6, 2022 regularly-scheduled meeting in order to address additional concerns which were raised in the Board Engineer's September 21, 2021 review letter and otherwise; and

**WHEREAS**, the Board Engineer prepared a subsequent review letter dated December 31, 2021, which the Board incorporates by reference herein; and

**WHEREAS**, the Applicant appeared virtually before the Board again at a regularly-scheduled meeting on January 6, 2022, at which time the Board commenced a public hearing on the Application, more fully set forth herein below;

**WHEREAS**, Chairman Willaim Duffy, Mayor Todd Tersigni and Robert Bencivenga again announced to the public that they would be recusing themselves from consideration of the Application; and

**WHEREAS**, as a result of the preceding recusals, nonetheless, a quorum of five (5) Board members, identified below, was established; and

**WHEREAS**, at the preceding hearings, the Applicant was represented by Mark R. Peck, Esq., who presented a brief explanation concerning the Applicant's intended use of the subject property and the approvals sought; and

**WHEREAS**, the Board has received certain documentation and reports from the Applicant, the Board's professional consultants and other interested parties, all of these having been given due consideration and being the following:

- A. Town of Phillipsburg Zoning Permit Application, dated July 26, 2021;
- B. Town of Phillipsburg – “Application for Minor or Conventional Site Plans” for Block 2102, Lot 2.02, dated August 5, 2021, which included a Certification from the Collector of Taxes, dated July 26, 2021, that realty taxes and sewer payments are current;
- C. Town of Phillipsburg – “Application for Conventional Site Plan,” dated August 5, 2021;
- D. Town of Phillipsburg – Preliminary Site Plan Checklist for Conventional Site Plan, dated August 5, 2021;
- E. Town of Phillipsburg – Final Checklist for Conventional Site Plan, dated August 5, 2021;
- F. Transmittal letter submitted by Mark R. Peck, Esq., dated August 6, 2021;
- G. Preliminary Major Site plan entitled: “Preliminary Major Site Plan for Peron Development, LLC, Proposed Industrial Development, Map: 21, Block 2102, Lot 2.02,” prepared by Bohler Engineering NJ, LLC, dated July 31, 2021, and consisting of forty-one (41) sheets;
- H. Boundary and Topographical Survey entitled: “Boundary and Topographic Survey 170 Howard Street, Lots 1, 2.01 & 2.02, Block 2102, Town of Phillipsburg, Warren County, State of New Jersey,” prepared by Control Point Associates, Inc., consisting of one sheet, dated January 14, 2020, and revised on August 5, 2021;
- I. Stormwater Management Narrative, prepared by Bohler Engineering, LLC, dated August 6, 2021;
- J. Trip Generation Comparison Letter, prepared by McMahon Associates, Inc. dated July 29, 2021;
- K. Correspondence from Bohler Engineering, LLC, dated September 10, 2021;
- L. Town of Phillipsburg Ordinance 2021-14 – amending Riverfront Redevelopment Plan – District 5; and
- M. Town of Phillipsburg Tax and Sewer Certification from Tax Collector that taxes and sewer are paid through March 31, 2022; and

**WHEREAS**, the Applicant is requesting the following variances from the Town Ordinances:

- 1. A “c” variance, pursuant to N.J.S. 40:55D-70(c), to permit parking spaces to be closer than ten feet (10’) to the building where L.O. 625-60(B)(5) prohibits the same;
- 2. A “c” variance, pursuant to N.J.S. 40:55D-70(c), to allow deviation from the off-street parking, loading and driveway requirements of L.O. 625-25(E);
- 3. A “c” variance, pursuant to N.J.S. 40:55D-70(c), to allow the issuance of a certificate of occupancy prior to the completion of parking facilities as required by L.O. 625-25(F);
- 4. A “c” variance, pursuant to N.J.S. 40:55D-70(c), to allow parking area not to be screened by landscaping as required by L.O. 625-25(I);

5. A "c" variance, pursuant to N.J.S. 40:55D-70(c), to permit the non-residential driveway to exceed thirty feet (30') at the property line and forty feet (40') feet at the curb line where L.O. 625-30(B) prohibits the same;
6. A "c" variance, pursuant to N.J.S. 40:55D-70(c), to permit new construction without the off-street loading spaces required by L.O. 625-31(A);
7. A "c" variance, pursuant to N.J.S. 40:55D-70(c), to permit new construction without the number of off-street loading spaces required by L.O. 625-31(C);
8. A "c" variance, pursuant to N.J.S. 40:55D-70(c), to permit fewer parking spaces than required by L.O. 625-32(B)(1);
9. A "c" variance, pursuant to N.J.S. 40:55D-70(c), to allow the removal of naturally-wooded buffers where L.O. 625-12(A)(1), prohibits the same; and
10. A "c" variance, pursuant to N.J.S. 40:55D-70(c), not to have to maintain and replace plantings in their natural state where L.O. 625-12(A)(3), requires the same; and

**WHEREAS**, the Applicant is requesting the following design waivers from the Town Ordinances:

1. A permanent waiver from L.O. 510-12(A)(1) which requires landscaping to be kept in its natural state, insofar as practicable;
2. A permanent waiver from L.O. 510-12(A)(2) which requires the proposed structure to relate harmoniously with the land and existing buildings;
3. A temporary waiver from L.O. 510-12(A)(4) which prohibits surface stormwater run-off from affecting adjacent properties;
4. A temporary waiver from L.O. 510-12(B)(2)(b) which requires trench drains across all driveway entrances;
5. A permanent waiver from L.O. 510-12(B)(2)(c)(2) which requires raised curbed islands at every fifth row of parking; and
6. A permanent waiver from L.O. 510-12(B)(2)(d) which requires shade trees; and

**WHEREAS**, the Board having considered the letters of the Board engineer dated September 21, 2021 and December 31, 2021, the contents of which the Board adopts and incorporates its finding of fact by reference herein; and

**WHEREAS**, the Applicant presented the sworn testimony of the following individuals on January 6, 2022:

1. Michael J. Perrucci, who is the Applicant's principal owner;
2. Bradford A. Bohler, P.E. who is the Applicant's engineer;
3. Oliver H. Franklin, Sr., RA, who is the Applicant's architect;

4. John R. Wichner, P.E., who is the Applicant's traffic engineer; and
5. John McDonough, PP, who is the Applicant's planner; and

**WHEREAS**, the following documents were marked as exhibits at the January 6, 2022 hearing and were discussed and testified to by the Applicant's witnesses. These are now included as part of the record:

1. A-1: Curriculum Vitae of Bradford A. Bohler, P.E.;
2. A-2: Curriculum Vitae of Oliver H. Franklin, Jr., RA;
3. A-3: Curriculum Vitae of John McDonough, PP;
4. A-4: Curriculum Vitae of John R. Wichner, P.E.
5. A-5: Aerial Exhibit of current location, page 1;
6. A-6: proposed rendering "Overall Site Plan Layout" C-301;
7. A-7: view corridor map;
8. A-8: color landscape rendering view #1;
9. A-9: color landscape rendering view #2;
10. A-10: color landscape rendering view #3;
11. A-11: proposed building floor plan, dated June 8, 2021;
12. A-12: architectural sheet A-2 depicting north and east elevations;
13. A-13: architectural sheet A-3 depicting south and west elevations;
14. A-14: color rendering of "eye level view;"
15. A-15: truck circulation exhibit "C" from Bohler engineering sheet 3;
16. A-16: October 27, 2021 aerial drone views – 3 photographs; and
17. A-17: January 2, 2022 letter from Phillipsburg Fire Chief; and

**WHEREAS**, as referenced below, subsequent to the January 6, 2022 hearing, the Board received additional documentation, which is now included as part of the record, as follows:

1. A-18: January 25, 2022 letter from Phillipsburg Fire Chief;
2. B-1: Certification of Board Member Bernie Brotzman; and
3. B-2: Certification of Board Member Keith Kennedy; and

**WHEREAS**, before the testimony of the Applicant's witnesses on January 6, 2022, the Board's engineer and the Applicant's Engineer discussed the temporary waivers from the Town's Site Plan checklist which were requested by the Applicant and which are referenced in the Board engineer's September 21, 2021 and December 31, 2021 letters and further recommended that the Board grant temporary waivers from the Town's Preliminary Site Plan Checklist, as outlined in the December 31, 2021 letter; and

**WHEREAS**, by unanimous vote on September 23, 2021, the Board granted the temporary waivers referenced above, and reaffirmed the same on January 6, 2022, by unanimous voice; and

**WHEREAS**, the Applicant first offered Michael J. Perrucci, Esq., who is the Applicant's principal who provided a history of his ownership of the subject property and testified as to his belief regarding the value of the project to the Town;

**WHEREAS**, Bradford A. Bohler, P.E., a New Jersey Licensed Engineer, of Bohler Engineering, LLC, was offered as the second witness, who after being sworn and accepted as an engineering expert, based upon Exhibit "A-1," provided testimony on behalf of the Applicant. Mr. Bohler discussed all the following. Site plan page 1 was marked as Exhibit "A-5." He provided testimony on the existing conditions of property with the exhibit. He then offered Exhibit "A-6," which is the proposed site rendering, C-301, "Overall Site Plan Layout" and explained what it represented. He testified regarding the need for a waiver at driveway width—comment 2g in the Board Engineer's December 31, 2021 letter. He then offered Exhibits "A-7" through "A-10" to provide views of the property as proposed. He testified regarding fire truck access to the site and that there are staircases on the building for firemen access. He testified regarding the proposed 352 parking spaces where the Town's ordinance requires 420 as noted in the Board Engineer's December 31, 2021 letter at comment 2j. Mr. Bohler then testified regarding the loading docks as raised in the Board Engineer's comments, to the Board Engineer's satisfaction. He then testified regarding grading and the need for a wall on the southern side of the property. Mr. Bohler discussed that shrubbery and grading will hide some of the parking spaces. He testified that the proposed basins are consistent with the New Jersey Department of Environmental Protection ("DEP") requirements. He said the DEP application required will be sought. He then discussed utilities, fire hydrants, gas and electrical locations on the site. He testified that lighting would be LED around the facility, on the buildings all sides and in the parking lot. Mr. Bohler stated that lighting would be consistent with the Town's Ordinances to the extent that lighting would remain in the site and not illuminate off-site. He said lights will be thirty feet (30') in height which is consistent with the Town Ordinances. He testified that evergreen trees will be a buffer on the southside. There will be 600 shrubs on the property. He testified that the issue of signage is unclear as of now because there is no tenant in place and that the Applicant would be in compliance or seek further relief from the Board. There would be a sign at both the east and west entrances. There is a proposal for a sign on the building not to exceed fifty percent (50%) of the wall space which is consistent with the Town Ordinances. Board Member Austin then asked of the length of the building. Mr. Bohler responded that it would be approximately one thousand two hundred feet (1200') long. Town Planner Knowles then inquired of the distance between the proposed building and the Delaware River. She also asked how high the plantings will grow. Mr. Bohler responded that distance between the proposed building and the Delaware River would approximately four hundred feet (400') on average. He testified that the proposed building would be forty-nine feet (49') tall. He said that from a Howard Street view, the proposed building would look like a thirty-nine foot (39') tall building based upon the grading. He said the plantings could grow between twenty-five feet (25') and fifty

feet (50') over their lifetime. Ms. Knowles then inquired about the traffic impact in the area. Mr. Bohler deferred the question to the Applicant's traffic engineer whose testimony would be subsequently offered. Ms. Knowles emphasized that it is important for the Applicant to work with the public to address traffic concerns. The Board Engineer then inquired about connecting the existing Warren County heritage trail next to the property to McKeen Street for pedestrian traffic. Mr. Bohler said that was possible. The Board Engineer also stated that Warren County should be consulted regarding walking areas around the property to which Mr. Bohler agreed. Mr. Bohler then went through the Board Engineer's December 31, 2021 review letter. As for the possible variances listed in the Board Engineer's letter, Mr. Bohler stated that item 1a is addressed. Item 1b – he will work with fire department. Item 1c- testimony was provided. Item 1d – the parking lot will be completed prior to the issuance of the certificate of occupancy. Items 1e and 1f – Mr. Bohler believes the criteria have been met. Item 1g – testimony was provided. Items 1h through 1j are acceptable comments – variances needed. Items 1k and 1m – testimony was provided. Item 1n – the Applicant will replace all vegetation. As to design waivers, items 2a and 2b testimony was provided. Item 2c - Mr. Bohler believes was addressed to the Town Fire Chief's satisfaction. Item 2d – the Applicant will obtain a DEP permit and address the issue raised. Item 2e – testimony was provided. Item 2f – Mr. Bohler believes it is premature to address signage as an occupant of the proposed building has not been selected. Item 2g – Mr. Bohler stated that nothing will be stored outside of the building. Item 2h – Mr. Bohler believes that the engineering site standards are met. Items 2i and 2j – Mr. Bohler believes are not applicable because the Applicant does not intend to provide the Howard Street extension. Items 1g and 1h – Mr. Bohler believes issues are addressed. Item 1i -pedestrian access addressed. Items 1j and 1k – Mr. Bohler believes are compliant with the Town Fire Chief's request. Item 1m – Mr. Bohler confirmed that the Applicant will comply with the Town and Warren County's soil erosion plans. Items 2m and 2n – Mr. Bohler stated will be met. As to the Board Engineer's technical comments, the Applicant concurs with all of them and notes that some of the comments will be addressed in the DEP application. The Applicant does not intend to provide a turnaround area for trucks as noted in the Board Engineer's comment d(i) on page 24. The Board Engineer replied that the truck turnaround issue still needs to be addressed because the Town's experience with other properties in Town is that trucks are not always compliant. At that time, Mr. Zwicker stated that he concurred and that the issue must be addressed; and

**WHEREAS**, the Board was satisfied with Mr. Bohler's testimony, especially in light of the Board Engineer's comments and review, such that the Board did not have any additional questions or comments; and

**WHEREAS**, Oliver H. Franklin, Sr., RA, the Applicant's architect, was offered as the third witness, who after being sworn and accepted as an architectural expert based upon Exhibit "A-2," provided

testimony on behalf of the Applicant. Mr. Franklin briefly testified regarding Exhibits "A-11" and Exhibit "A-12" which were offered and accepted; and

**WHEREAS**, the Board was satisfied with Mr. Franklin's testimony such that the Board did not have any questions or comments; and

**WHEREAS**, John R. Wichner, P.E., the Applicant's engineer, was the fourth witness, who after being sworn and accepted as an engineering expert, based upon Exhibit "A-4," provided testimony on behalf of the Applicant. Mr. Wichner testified that a trip generation comparison letter was made in July of 2021 and submitted with the application. This letter addressed trip generations for a residential development in 2014 which was proposed on the site. He stated that now with a proposed industrial use that he conducted a full traffic impact study. He then testified that the site is adequate for truck traffic. After the brief presentation, he answered some general questions from the Board. Mr. Zwicker expressed concern about truck traffic stacking outside the entrance to the site on Town streets. The Board Engineer inquired if there would be parking restrictions on McKeen Street and referenced Exhibit "A-15." In response, Mr. Wichner deferred that the issue would be addressed with the final design of the site. Mr. Peck then said that razing buildings off-site may free-up more space. The Board Engineer then asked if operations on site would be open all hours ("24/7"). Mr. Wichner responded that he could not answer because there is not yet an occupant of the premises. Mr. Wichner said that the focus of his study was on peak hours which he identified as 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m. The Board Engineer then pointed-out that some parking spaces will be lost on South Main Street. Mr. Peck then interceded that the Applicant intends to work with the Town to replace lost parking spaces. The Board then inquired if the Town has a noise ordinance for truck traffic which the Board attorney stated he would investigate. Mr. Peck then said that the Applicant will comply with all municipal and state noise codes and regulations. The Board Engineer then stated that there are noise and pollution standards which must be addressed by the Applicant. Mr. Peck suggested that the Applicant could enter into a lease with the Town regarding no left-hand turns being allowed. The Board attorney questioned Mr. Peck if that was beneficial and enforceable as to non-parties to the lease to which Mr. Peck stated that the New Jersey Traffic Code enforcement would apply on-site. The Board inquired if Mr. Wichner had contacted the Phillipsburg School District to determine where bus stops and bus routes are located – to which he acknowledged he had not. Mr. Wichner then commented on the Board Engineer's comments beginning on page 39 of the December 31, 2021 review letter; and

**WHEREAS**, the Board was satisfied with Mr. Wichner's testimony such that the Board did not have any additional questions or comments; and

**WHEREAS**, John McDonough, PP, the Applicant's planner, was offered as the fifth witness, who after being sworn and accepted as a professional planner, based upon Exhibit "A-3," provided testimony

on behalf of Applicant. Mr. McDonough testified that based upon testimony heard during the hearing he can opine that the requested zoning variances are appropriate and consistent with the Town's Riverfront Redevelopment Plan. He characterized the application as "reasonable and appropriate" from a planning perspective. He showed the Exhibit "A-16" drone views. He testified that the proposed building will blend with the existing landscape. Mr. McDonough testified that the Applicant's "c" variance relief is appropriate because the benefits of the development substantially outweigh the detriments (positive criteria) because there will be a business which is beneficial to the area and there are adequate facilities in place to accommodate the proposal. He believes that the overall flow, parking and traffic circulation are consistent with the neighborhood. He testified that the Applicant's offering of traffic restrictions is appropriate from a planning perspective. He stated that the zoning relief requested by the Applicant is all design relief. He believes that the parking supply will meet the industry standards. He testified that the driveway variances for width greater than 30' and 40' is necessary for adequate traffic flow; and

**WHEREAS**, the Board was satisfied with Mr. McDonough's testimony such that the Board did not have any additional questions or comments; and

**WHEREAS**, the Board engineer and the Applicant's engineer had a brief discussion thereafter; and

**WHEREAS**, the Applicant did not offer any additional witnesses, documents or evidence; and

**WHEREAS**, the Town Planner, Angela Knowles, was present during the hearing and commented as noted above and did not have any further comment; and

**WHEREAS**, given the length of the hearing on January 6, 2022, and given the interest of the members of the public who were present and interested in the matter, the Board decided to continue the hearing to the next regularly scheduled meeting on January 27, 2022; and

**WHEREAS**, Board Member Tony Austin resigned from the Board on January 27, 2022, which resignation was accepted by the Board at the beginning of the meeting; and

**WHEREAS**, Town Council member Keith Kennedy was appointed by the Town Council as the Class III Board member and was sworn-in at the beginning of the January 27, 2022 meeting; and

**WHEREAS**, Mr. Kennedy was asked by the Board attorney if he had reviewed an audio, video or written transcript of the January 6, 2022 hearing and he stated affirmatively, and therefore, was eligible to participate in the hearing pursuant to N.J.S. 40:55D-10.2; and

**WHEREAS**, Board member Bernard Brotzman, who was not present at the January 6, 2022 hearing, was asked by the Board attorney if he had reviewed an audio, video or written transcript of the January 6, 2022 hearing and he stated affirmatively, and therefore, was eligible to participate in the hearing pursuant to N.J.S. 40:55D-10.2; and

**WHEREAS**, Mr. Kennedy and Mr. Brotzman have signed affidavits attesting to the preceding, which are marked as Exhibits "B-1" and "B-2" and made a part of the record; and

**WHEREAS**, on January 27, 2022, the Applicant stated that it did not have any additional testimony or evidence, and therefore, the Board asked for public comment and received much public comment; and

**WHEREAS**, there were numerous public comments and questions, both in favor and against the application, which were answered by the Board, its professionals, and the Applicant's professionals; and

**WHEREAS**, the Board considered all of the preceding;

**NOW THEREFORE**, as a result of the Applicant's presentation, testimony and exhibits presented by the Applicant's witnesses as aforesaid and the documentation submitted, the Board finds as follows:

1. The subject property is located in the Town of Phillipsburg Riverfront Redevelopment Zone, Districts 3 and 5.
2. The Town Council passed Resolution 2021-14 which is incorporated by reference herein.
3. N.J.S. 40:55D-1, *et. seq.*, the "New Jersey Municipal Land Use Law," provides for review and Approval of Preliminary and Final Major Site Plans by the Board.
4. The "Town of Phillipsburg's Site Plan Ordinance of 1979" provides for review and Approval of Preliminary and Final Major Site Plans by the Board, pursuant to L.O. 510-1, *et. seq.*
5. The Applicant must obtain Preliminary and Final Major Site Plan Approval from the Board before it develops the subject property.
6. The Board has the authority to grant waivers from the provisions of Chapter 510 of the Town of Phillipsburg's Ordinances, to wit, the "Town of Phillipsburg's Site Plan Ordinance of 1979," pursuant to N.J.S. 40:55D-51.
7. N.J.S. 40:55D-51(b) states: "The planning board when acting upon applications for preliminary site plan approval shall have the power to grant such exceptions from the requirements for site plan approval as may be reasonable and within the general purpose and intent of the provisions of the site plan review and approval of an ordinance adopted pursuant to this article, if the literal enforcement of one or more provisions of the ordinance is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question."

8. A waiver is an acknowledgment by the Board that conditions of the property are satisfactory and meet the requirements of the Town of Phillipsburg Ordinances.
9. The Board has authority to grant variances from the provisions of N.J.S. 40:55D-1, et. seq., the "New Jersey Municipal Land Use Law," pursuant to N.J.S. 40:55D-70 and pursuant Section 555-22 of the "Town of Phillipsburg's Site Plan Review Ordinance of 1979."
10. A variance is a deviation from the strict application of Chapter 625 of the Town of Phillipsburg's Ordinances, *to wit*, the "Town of Phillipsburg Zoning Ordinance," as set forth therein pursuant to N.J.S. 40:55D-62, et. seq., and the regulations established thereto.
11. It has been acknowledged by the Board that waivers of the requirements be granted as to each of the items contained in the Board's Engineer's December 31, 2021 letter.
12. The Board concurs that the condition of the property is satisfactory and meets the requirements of the Town of Phillipsburg Ordinances thereby authorizing the granting of waivers as requested by the Applicant.
13. The Board concurs that, in all other respects, the condition of the property is satisfactory and meets the requirements of the Town of Phillipsburg Ordinances.

**NOW THEREFORE, BE IT RESOLVED THAT** the Applicant's request for the ten (10) variances from the "Town of Phillipsburg Zoning Ordinance," under Chapter 625 of the Town of Phillipsburg's Ordinances as noted above, pursuant to N.J.S. 40:55D-70(c), are hereby **GRANTED**, on Motion of Mr. Turnbull and Seconded by Mr. Hanisak:

**ROLL CALL VOTE**

Ayes: Mr. Zwicker, Mr. Turnbull, Mr. Hanisak, Mr. Penrose and Mr. Brotzman.  
Nays: Mr. Kennedy  
Abstentions: None.  
Recused: Chairman Duffy, Mayor Tersigni and Mr. Bencivenga.

**NOW THEREFORE, BE IT FURTHER RESOLVED THAT** the Applicant's request for the six (6) permanent waivers from the "Town of Phillipsburg's Site Plan Ordinance of 1979," for design waivers from the requirement under L.O. 510-1, et. seq., is hereby **GRANTED**, on Motion of Mr. Zwicker and Seconded by Mr. Penrose:

**ROLL CALL VOTE**

Ayes: Mr. Zwicker, Mr. Turnbull, Mr. Hanisak, Mr. Penrose and Mr. Brotzman.

Nays: Mr. Kennedy.

Abstentions: None.

Recused: Chairman Duffy, Mayor Tersigni and Mr. Bencivenga.

**NOW THEREFORE, BE IT FURTHER RESOLVED THAT** the Applicant's request for a Preliminary Major Site Plan approval, is hereby **GRANTED**, on Motion of Mr. Zwicker and Seconded by Mr. Brotzman:

**ROLL CALL VOTE**

Ayes: Mr. Zwicker, Mr. Turnbull, Mr. Hanisak, Mr. Penrose and Mr. Brotzman.

Nays: Mr. Kennedy.

Abstentions: None.

Recused: Chairman Duffy, Mayor Tersigni and Mr. Bencivenga.

**AND IT IS FURTHER RESOLVED THAT** the Applicant's request for Preliminary Major Site Plan approval for the construction of an industrial building of approximately four hundred and twenty thousand square feet (420,000') for the property identified on the Town Tax Map as Block 2102, Lot 2.02, with a street address of 170 Howard Street, Phillipsburg, Warren County, with three hundred and fifty-two (352) passenger car parking spaces, eighty-eight (88) loading docks and thirty-nine (39) spaces for trailer parking on the property known as Block 2101, Lot 2.02, located in the Town of Phillipsburg Riverfront Redevelopment Zone, District 5, and to raze the existing structures which are located on the properties known as 560 and 562 South Main Street and identified on the Town Tax Map as Block 2015, Lots 1 and 3, in order construct roadway improvements, is granted subject to the express and unaltered conformation with the following conditions:

1. The Applicant shall be bound to comply with all comments contained in the Board Engineer's review letters dated September 21, 2021, and December 31, 2021, as modified at the January 6, 2022, and January 27, 2022 hearings, unless altered by this approval, including any comments contained in subsequent reports. In the event that the Applicant is unable to comply with any of the Board Engineer's

requirements or recommendations, it is understood that it reserves the right to apply to this Board for relief therefrom.

2. The Applicant shall ensure that the building is constructed and erected in strict compliance with the Site Plan with the understanding that any deviation therefrom which is deemed by the Board's Engineer's to be a significant deviation from the Plan hereby approved shall require further review and approval by this Board.

3. The Applicant shall procure, and provide copies to the Board, of all applications, licenses and permits required by all federal, state and municipal agencies.

4. The Applicant shall schedule a pre-construction conference with the Town Engineer's office at least two days prior to commencement of construction.

5. The Applicant shall pay all outstanding fees and deficiencies in the review escrow account and bring current all real estate taxes, sewer and water charges pertaining to this site before the commencement of construction.

6. Any portion of any prior Site Plan approvals are hereby vacated to the extent they may be inconsistent with this Site Plan.


7. The Applicant shall apply for, and obtain, approval from all other agencies and governmental bodies which may have concurrent jurisdiction over this project including, but not limited to, the New Jersey Department of Environmental Protection, Town of Phillipsburg Fire Chief, the Town of Phillipsburg Chief of Police, the Warren County Planning Board, the Warren County Soil Conservation District, the Phillipsburg Sewer Utility, Elizabethtown Gas, Aqua New Jersey and Jersey Central Power & Light ("JCP&L").

8. All necessary and proposed easements must be obtained before construction commences and be shown on the site plat drawing and be approved by the Board's Attorney and the Board's Engineer.

9. The Board recommends to the Town Council, as the redevelopment authority, that it require the Applicant to extend Howard Street as set forth in the Consistency Review Report entitled: "Proposed Amendment to the Riverfront Redevelopment Plan," dated February 25, 2021, which was prepared by Town Planner Angela Knowles, at the direction of this Board, upon referral from the Town Council in its Resolution No. 2021-14.

The foregoing Resolution memorializing the action taken by the Town of Phillipsburg Planning Board was duly adopted at its regular meeting on the 27<sup>th</sup> day of January, 2022, by a majority of the aforesaid members approving the oral approval for the contents herein on February 24, 2022.

Dated: February 24, 2022



**KEITH ZWICKER** Vice-Chairman