TOWN OF PHILLIPSBURG LAND USE BOARD RESOLUTION NO. 2025-4

RESOLUTION GRANTING SITE PLAN EXEMPTION AND VARIANCES IN NO. 2024-05

382 SOUTH MAIN, LLC – Applicant/Owner
417 Van Holten Road
Bridgewater, New Jersey 08807

Block 1506, Lot 5
382-384 South Main Street

Application #2024-05

WHEREAS, 382 South Main, LLC ("Applicant") applied to the Town of Phillipsburg Land Use Board ("Board") for Site Plan Exemption under the "Town of Phillipsburg's Site Plan Ordinance of 1979," pursuant to N.J.S. 40:55D-51; Bulk Variance Approval pursuant to N.J.S. 40:55D-70(c); and Use Variance Approval pursuant to N.J.S. 40:55D-70(d); and any and all design exceptions and/or waivers for certain improvements to the mixed use property owned by the Applicant, identified on the Town Tax Map as Block 1506, Lot 5, with a street address of 382-384 South Main Street, Phillipsburg, Warren County, New Jersey, located in the Town's B-4 Business Zone ("the subject property") to permit the conversion of the existing mixed-use commercial/residential property's first floor unit into a two-bedroom residential unit which is not a permitted use in the zone (collectively "the Application") and

WHEREAS, the Board having satisfied itself that proper notice was given to neighboring property owners and 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 2024, and having satisfied itself that it had jurisdiction over the Application; and

WHEREAS, the Board being satisfied that the application had been made accessible to the public by both being posted on the Town of Phillipsburg's website and being physically available for inspection with the Secretary of the Board; and

WHEREAS, Mayor Randy Piazza, being the Class I member of the Board, and Edward Saultz, being the Class III member of the Board, and Melissa Paulus, being the former Class III member of the Board, recused themselves entirely from consideration of this Application; and

WHEREAS, the Applicant appeared before the Board at a regularly-scheduled meeting on September 26, 2024, and was represented by William R. Edleston, Esq., at which time the Applicant requested that its' Application be deemed complete and the Board having the benefit of the Board Engineer's September 20, 2024 review letter, and the Board having determined by unanimous vote of the Board members present that the Application is complete; and

WHEREAS, a public hearing was held on November 25, 2024, where the Applicant, represented by William R. Edleston, presented an explanation concerning the Applicant's intended use of the subject property and the approvals sought and summarized the benefits of the project, *to wit*, the conversion of the existing mixed-use commercial/residential first floor unit into a two-family residential unit; and

WHEREAS, the Board Engineer and the Board Attorney were satisfied that the Board's determination of the Application's completeness, which was made on September 26, 2024, remained accurate; and

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

A. Town of Phillipsburg – "Application for Site Plan Exemption" for Block 1506, Lot 5, dated August 8, 2024, and marked "received" by the Board Secretary on August 4, 2024;
B. Certification from the Collector Taxes, dated November 22, 2024, that realty taxes and sewer payments were current;
C. Town of Phillipsburg Division of Inspections "Denial of Application," dated November 7, 2022;
D. Hand sketch of the existing and the proposed building first floor interior, not dated, not signed and sealed, and the name of the sketcher not identified, consisting of two (2) pages;
E. Survey prepared by P2 Land Surveying, Inc., dated January 6, 2022, not signed and not sealed, consisting of one page;
F. Town of Phillipsburg Historic Preservation Commission Application for Certificate of Appropriateness filed by Applicant, dated November 5, 2024, consisting of two pages; and
G. November 24, 2024 email from Chairman of Town of Phillipsburg Historic Preservation Commission to Board Secretary; and

WHEREAS, the Board has considered the review letter of the Board Engineer dated September 20, 2024, the contents of which the Board adopts and incorporates its finding of fact by reference herein; and

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

1. A "d' use variance, pursuant to N.J.S. 40:55D-70(d)(1), to permit residential uses in the B-4 Business Zone, where the same is prohibited by L.O. 625-66 and L.O. 625-68;
2. A "c" use variance, pursuant to N.J.S. 40:55D-70(c)(1), to permit the continuation of a non-conforming front yard setback where the existing building encroaches the right-of-way;
3. A "c" use variance, pursuant to N.J.S. 40:55D-70(c)(1), to permit less than one thousand two hundred square feet (1,200' sq.) of residential floor area as required by L.O. 625-80; and

4. A "c" use variance, pursuant to N.J.S. 40:55D-70(c)(1), to permit less than the number of parking spaces required by L.O. 625-32; and

WHEREAS, the Applicant is not requesting any permanent design waivers from the Town Ordinances; and

WHEREAS, the Applicant is requesting Site Plan Exemption under L.O. 510-9(C) of the "Town of Phillipsburg's Site Plan Review Ordinance of 1979," and

WHEREAS, the Applicant presented the sworn testimony of the following individuals on November 25, 2024 and July 24, 2025:

1. Carlos A. Santos, who is the Applicant's principal;
2. James T. Kyle, P.P., A.I.C.P., who is the Applicant's planner; and
3. Maria Helena Sanots, who is the Applicant's representative; and

WHEREAS, the following documents were marked as exhibits at the September 26, 2024, November 25, 2024 and July 24, 2025 hearings and were discussed and testified to by the Applicant's witnesses. These are now included as part of the record:

1. Exhibit "A-1:" Curriculum Vitae of James T. Kyle, P.P., A.I.C.P.;
2. Exhibit "A-2": Aerial map of Block 1506 and surrounding area, dated November of 2024, prepared by James T, Kyle, P.P., A.I.C.P.; and
3. Exhibit "A-3": Aerial map of Block 1506 and surrounding area, dated July of 2025, prepared by James T, Kyle, P.P., A.I.C.P.; and

WHEREAS, the Applicant's first witness on November 25, 2024, was its' principal, Carlos A. Santos, who was sworn. He briefly discussed the overall project. He stated that he purchased the property two and one-half to three years ago and that he has not had any success renting the first floor during the time that he has owned the property. He stated that he has offered to rent the space for as little as $400.00, per month to no avail. He claims that his carrying costs – taxes and insurance – have increased and he is not getting any revenue from the first floor. He stated that all of the proposed renovations are interior (kitchen and bathroom) and that he will not make any exterior improvements. He stated that presently the first floor consists of just two walls. He testified that the two upstairs residential units are occupied and that the existing tenants do not have vehicles, that he believes there is adequate on-street parking, and he is not seeking to address any parking issues. He testified that the proposed renovation of the first floor will be a singular two-bedroom unit. He stated that the garage stores only tenants' property. He testified that each unit has its' own waste disposal can and all cans are located in the rear of the property. He testified that the existing doorway and porch will remain; and

WHEREAS, the Chairman then asked the Board members if they had any additional questions and a few clarifications were sought by members. The Chairman asked if the Applicant's annual rental

inspections were current to which the Applicant responded that he has not had the property inspected during his two years of ownership by claiming ignorance of his obligation. He was reminded to schedule the inspection promptly; and

WHEREAS, Mr. Santos' testimony was concluded and, especially in light of the Board Engineer's comments and review, the Board did not have any additional questions or comments for this witness; and

WHEREAS, the Applicant next offered the testimony of James T. Klye, P.P., A.I.C.P., who is the Applicant's professional planner, who after being sworn, was accepted as a planning expert by the Board based upon his testimony, education, training, knowledge and experience and his Curriculum Vitae, which was marked subsequent to the hearing as Exhibit "A-.1" Mr. Kyle began his testimony by summarizing his more than twenty-five (25) years of experience as a professional planner. He stated that he serves municipal bodies as a consulting planner and also represents applicants before municipal bodies. He testified that he has been qualified as a planning expert before municipal bodies, including this Board, and in the Superior Court of New Jersey. Upon motion and voice vote, Mr. Kyle was accepted as a professional planner. Mr. Kyle then offered Exhibit "A-2," which is an aerial photograph of the subject property and the surrounding area. He testified briefly about the size of the building and that the Applicant has been unsuccessful leasing the first floor as a commercial unit even with a low base rent. Mr. Kyle addressed the requested use variance under N.J.S. 40:55D-70(d), *to wit*, a two-bedroom residential use on the first floor which is not permitted. Mr. Kyle acknowledged that the property's front property is in the publice right-of-way and that a bulk variance is needed for this pre-existing non-conforming use. He acknowledged the Applicant is seeking a variance from the two parking units requirement. He also stated a bulk variance is necessary for lot the lot coverage. Mr. Kyle then referenced the positive criteria and the negative criteria under New Jersey law for use variances and the Applicant's necessity of proving that the requested relief is not inconsistent with the Town's Master Plan. He first addressed the positive criteria by describing the area as consisting of nearby first floor residential units such that the property will fit in with the neighborhood. He said that, overall, the proposal addresses a partial vacant property. As for the positive criteria, Mr. Kyle then cited purposes "a" and "g" of New Jersey's "Municipal Land Use Law" (the "MLUL"), N.J.S. 40:55D-2, as being satisfied with the proposed project. Mr. Kyle said that if the property where used residentially, as opposed to commercially, the parking demand would be lower which lessens the demand on area that is already stressed for parking, but that in his view, after being on site, parking is not really an issue. He testified that if the property were residential and occupied that would help the nearby similar vacant commercial properties because it lessens the inventory. He testified that retail commercial sales are struggling statewide. He believes that residential occupancy benefits the nearby businesses because the occupants would frequent the nearby businesses. Mr. Kyle opined that all of the preceding support the positive criteria under the "d" variance. Mr. Kyle then addressed the negative criteria by opining that the occupancy of the first-floor unit

benefits the neighborhood. He stated that, without any exterior renovations, there will not be any negative impact on the neighborhood. He does not believe that residential occupancy will affect the parking demand. For these reasons, he does not believe the neighborhood would be negatively affected. Mr. Kyle then addressed the Town's Master Plan purposes and the zoning ordinances purposes. He stated that the Master Plan's goals and objectives and the purposes of the zoning ordinances under Chapter 625 are met by, for example, adaptively repurposing vacant properties to a use that is consistent with the uses in the area. He believes that the application squarely addresses this goal. He believes that, if residential use is not allowed, the property will remain vacant. He opines that residential use is not inconsistent with the Town's zoning plan's purposes. He opined that the retail market has struggled post-pandemic and will continue to struggle and that the property will remain vacant if only commercial uses are allowed and that there is no impairment to either the Master Plan or the Town's zoning ordinances and meets the Master Plan's goal of converting struggling properties into residences. He then emphasized that there is absolutely no detriment to the Town. Mr. Kyle opined that, under controlling law, specifically the case of *Medici v. BPR Co.*, 107 N.J. 1 (1987), the property is unique and qualifies for a variance. As for the "c(1)" hardship variance for parking, Mr. Kyle opined the property is uniquely configured so that on-site parking is impossible and that off-street parking does not impact adjacent properties. As for the lot area, he testified there are no exterior renovations proposed on this non-conforming use and therefore no impact on adjacent properties. Mr. Kyle then stated that the front yard setback, which is a pre-existing non-conforming use, will not have any impact on the adjacent properties; and

WHEREAS, the Chairman then asked the Board members if they had any questions and none were asked of the Applicant. However, there were some comments by a Board member who believed that the location as a residential unit is undesirable and that the existing interior conditions are undesirable as a living unit to which Mr. Santos stated interior renovations will be made. The same Board member stated that even though there are no exterior renovations proposed that windows likely should be renovated if the unit is to be residential to which Mr. Kyle stated that suggestion is reasonable and that an appropriate application to the Town Historical Commission would be made if necessary; and

WHEREAS, Mr. Kyle's testimony was concluded and, especially in light of the Board Engineer's comments and review, the Board did not have any additional questions or comments; and

WHEREAS, the Board began to comment and discuss the matter for a period of time before it was opened to public comment, and many of the Board members expressed concerns and reservations about the change in use by focusing on two things: (i) that the area is zoned for commercial use on the ground floor with residential uses on the higher floors and that the Board should not lightly grant relief from this requirement; and (ii) that there was concern granting the use variance in this case would set a precedent for

similar nearby properties to seek the same relief which run afoul of the purpose of the Town's zoning plan; and

WHEREAS, at that point, the Applicant requested that the hearing be continued to the December 19, 2024 meeting and the Board granted the continuance request upon a voice vote, and thereafter requested the application be carried multiple times through letters from the Applicant's attorney to the Board Secretary – all of which was granted by the Board and publicly announced at subsequent meetings; and

WHEREAS, on July 24, 2025, the Applicant offered Maria Helena Santos, who is an authorized representative of the Applicant as its' next witness. After being sworn, she testified that since the application was last heard on November 25, 2024, the Applicant has not been able to lease the first-floor commercial unit since it has been owned for nearly four years. She testified that the Applicant has received inquiries to lease the property as a residential unit. She stated that the Applicant would renovate the exterior if a residential unit on the first floor is permitted. Mrs. Santos testified that she does not observe any demand by consumers for businesses in the area. She testified that she has not viewed any issues with inadequate parking. The Board attorney then inquired regarding the true owner of the limited liability company Applicant and confirmed that she is an authorized representative of the Applicant. Mrs. Santos testified that the second floor is currently vacant and that no renovations have been made to the first floor. She stated that the electricity to the first floor unit currently is turned off; and

WHEREAS, the Chairman then asked the Board members if they had any questions of the witness and there were none; and

WHEREAS, Mrs. Santos' testimony was concluded and, especially in light of the Board Engineer's comments and review, the Board did not have any additional questions or comments for this witness; and

WHEREAS, on July 24, 2025, the Applicant again offered the testimony of James T. Klye, P.P., A.I.C.P., who is the Applicant's professional planner, who remained under oath. Mr. Kyle began by offering the aerial map of Block 1506 and surrounding area, dated July of 2025, prepared by him, and which he called a "land use study," which was marked as Exhibit "A-3." He then testified that there are residential units throughout the neighborhood and that the area is not exclusively retail. He opined that the Applicant's efforts to lease the property commercially have continued to be unsuccessful and that the subject property is likely to be vacant for the foreseeable future. He testified again that residential use requires less parking spaces than commercial use which helps the parking variance request as the negative criteria are met in that the adjacent properties are not impacted. Mr. Kyle then summarized some of his testimony from November 25, 2024, at the Board Chairman's request. He reiterated that the Applicant requested site plan waiver because there are no exterior renovations; that there is a use variance because residential use is not permitted on the first floor in this zone; and that bulk variances are required. He then again summarized that the

requested relief is consistent with the cited purposes "a" and "g" of the MLUL, and offered a condensed version of his prior testimony; and

WHEREAS, the Board members had some additional questions for Mrs. Santos regarding potential interior and exterior renovations if the requested relief was granted which were answered to the Board's satisfaction; and

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

WHEREAS, the Chairman opened comment to the public on July 24, 2025, and there was no more public comment; and

WHEREAS, the Board did not have any further inquiry; and

WHEREAS, the Board considered all of the preceding and also considered the Town's Master Plan, the Town's zoning ordinances, the Town's site plan ordinances and considered the comments and advice of the Board's engineer; and

WHEREAS, the Chairman called for a motion on the use variance above referenced and a motion was made by Mr. Turnbull, and second by Mr. Bond, to grant the requested use variance as recorded below; and

WHEREAS, the Chairman called for a motion on the bulk variances above referenced and a motion was made by Mr. Brotzman, and second by Mr. Turnbull, to grant the requested variances as recorded below; and

WHEREAS, a vote on the Site Plan Exemption did not take place on July 24, 2025, solely due to inadvertence; and

WHEREAS, on August 28, 2025, the Chairman called for a motion on the Site Plan Exemption above referenced and a motion was made by Mr. Penrose and seconded by Mr. Brotzman to grant Site Plan Exemption as recorded below; and

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. That the subject property is located in the Town of Phillipsburg B-4 Business Zone.
2. That N.J.S. 40:55D-1, *et. seq.*, the "New Jersey Municipal Land Use Law," provides for review and approval of applications for development including Minor and Conventional/Major Preliminary and Final Site Plans by the Board.
3. That the "Town of Phillipsburg's Site Plan Ordinance of 1979" provides for review and approval of all development applications, pursuant to L.O. 510-1, *et. seq.*
4. That the Applicant must obtain Preliminary and Final Conventional/Major Site Plan Approval from the Board before it develops the subject property, or alternatively, must obtain a site plan exemption/waiver.

5. That 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.
6. 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."
7. L.O. 510-9(A) states that: "The Board, when acting upon an application for site plan approval, shall have the power to grant such exceptions from the requirements of site plan approval as may be reasonable and within the general purpose and intent of the provisions for site plan review if the literal enforcement of one or more provisions of this chapter is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question."
8. L.O. 510-9(B) states that: "An applicant for any development or change of use of property that does not increase the intensity or use of the property or change the layout of the site or undertake any structural expansion, and further, if it is not physically possible to meet the other requirements of the Zoning or Development Ordinances of the Town of Phillipsburg requiring additional parking, landscaping, buffering, lighting or other such facilities and is so certified, in writing, by the applicant, may file a written application for waiver of the site plan review on forms provided in the office of the administrative officer at least 10 days prior to the next regularly scheduled meeting."
9. L.O. 510-9(C) states that: "The Planning Board, upon receipt of an application for waiver of site plan review and the proper filing fees shall have the power to grant a waiver of the site plan requirements of this chapter if the criteria set forth in the previous subsections of this section have not been met so as to provide for the continued safe use of the property."
10. That a waiver, or an exemption, is an acknowledgment by the Board that conditions of the property are satisfactory and meet the requirements of the Town of Phillipsburg Ordinances.
11. That waivers from the "Town of Phillipsburg's Site Plan Review Ordinance of 1979" requirements be granted as to the items noted above, and contained in the Board Engineer's letter dated September 20, 2024, as more particularly set forth herein this Resolution.
12. The Board has authority to grant conditional uses under the "New Jersey Municipal Land Use Law," pursuant to N.J.S. 40:55D-70 and pursuant to Section 625-81(c) of the "Town of Phillipsburg Zoning Ordinance."
13. Permitted uses in the B-4 Zone are found in L.O. 625-66.

14. First floor residential use is not permitted in the B-4 Zone.
15. Residential use above a business is a permitted use in the B-4 Zone.
16. Conditional uses in the B-4 Zone are found in L.O. 625-68 and include residential infill.
17. The general purpose and standards for Conditional Uses are set forth in L.O. 625-81 and 625-82.
18. That 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."
19. That 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.
20. That a use variance be granted as to the use of the property as more particularly set forth herein this Resolution as the proposed residential use in the B-4 Business Zone, in this instance, is not inconsistent with the Town's Zoning Ordinances of with the Town's Master Plan.
21. That bulk variances be granted as to the items noted above, and contained in the Board Engineer's letter dated September 20, 2024, as more particularly set forth herein this Resolution as the proposed residential use in the B-4 Business Zone, in this instance, is not inconsistent with the Town's Zoning Ordinances of with the Town's Master Plan.
22. That the subject property has been in a state of disrepair and has not been used for many years.
23. That the granting of the variances will improve the property aesthetically, economically and environmentally.
24. That the granting of the variances will not harm the public at all.
25. That the granting of the variances will not adversely affect the adjacent properties and surrounding area.
26. That the granting of the variances is beneficial to the Town as the intended use of the property will benefit a significant portion of the Town's population which does not have readily available access to affordable housing.
27. That affordable housing is inherently beneficial to the Town.
28. That strict enforcement of the Town's zoning standards would result in practical difficulties and/or undue hardship on the Applicant as the property owner.
29. That the granting of the variances will not affect the intensity of the use of the property.
30. That there currently are no plans to renovate, alter or otherwise change the existing site.
31. That the strict application of the Town's Zoning Ordinances would result in peculiar and exceptional practical difficulties and/or create an undue hardship to the owner of the property.

32. That the granting of the variances and the Site Plan exemption is not inconsistent with the Town's Master Plan.
33. That the granting of the variances and the Site Plan exemption is not inconsistent with 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.
34. That the granting of the variances and the Site Plan exemption is not inconsistent with New Jersey Municipal Land Use Law, N.J.S. 40:55D-1, *et. seq.*
35. That the granting of the variances and the Site Plan exemption is consistent with New Jersey Municipal Land Use Law purposes a, e, g, m and p under N.J.S. 40:55D-2.
36. That the Applicant acknowledges that any plans to renovate, alter or otherwise change the existing Site Plan cannot take place in the absence of a further site plan application to this Board.
37. 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 FURTHER RESOLVED THAT the Applicant's request for a use variance from the "Town of Phillipsburg Zoning Ordinance," under Chapter 625 of the Town of Phillipsburg's Ordinances, pursuant to N.J.S. 40:55D-70(d), to permit a residential use on the first floor of a building in the Town's B-4 Business Zone where the same is neither a permitted use pursuant to L.O. 625-66, nor a permitted conditional use pursuant to L.O. 625-68, as noted above, as noted above, is hereby **GRANTED**, on Motion of Mr. Turnbull and Seconded by Mr. Bond :

ROLL CALL VOTE

Ayes:	Chairman Duffy, Mr. Brotzman, Mr. Bond, Mr. Penrose, Mr. Noel and Mr. Turnbull.
Nays:	Mr. Zwicker.
Abstentions:	None.
Recused:	Mayor Piazza, Mr. Saultz.

NOW THEREFORE, BE IT FURTHER RESOLVED THAT the Applicant's request for three (3) variances from the "Town of Phillipsburg Zoning Ordinance," under Chapter 625 of the Town of Phillipsburg's Ordinances, pursuant to N.J.S. 40:55D-70(c), as noted above, are hereby **GRANTED**, on Motion of Mr. Brotzman and Seconded by Mr. Turnbull:

ROLL CALL VOTE

Ayes:	Chairman Duffy, Mr. Brotzman, Mr. Bond, Mr. Penrose, Mr. Noel and Mr. Turnbull.
Nays:	Mr. Zwicker.

Abstentions: None.

Recused: Mayor Piazza, Mr. Saultz.

NOW THEREFORE, BE IT FURTHER RESOLVED THAT the Applicant's request for a site plan waiver/exemption on the subject property, pursuant to Section 510-9(C) of the "Town of Phillipsburg's Site Plan Review Ordinance of 1979," is hereby **GRANTED**, on Motion of Mr. Penrose and Seconded by Mr. Brotzman:

ROLL CALL VOTE

Ayes: Mr. Bond, Mr. Brotzman, Mr. Noel, Mr. Penrose and Mr. Turnbull.

Nays: Chairman Duffy and Mr. Zwicker.

Abstentions: None.

Recused: Mayor Piazza, Mr. Saultz.

AND IT IS FURTHER RESOLVED THAT the Applicant's request for Site Plan Exemption under the "Town of Phillipsburg's Site Plan Ordinance of 1979," pursuant to N.J.S. 40:55D-51; and Use Variance Approval pursuant to N.J.S. 40:55D-70(d); and any and all design exceptions and/or waivers for certain improvements to the mixed use property owned by the Applicant, identified on the Town Tax Map as Block 1506, Lot 5, with a street address of 382-384 South Main Street, Phillipsburg, Warren County, New Jersey, located in the Town's B-4 Business Zone to permit the conversion of the existing mixed-use commercial/residential first floor unit to a two-bedroom residential unit 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 20, 2024, as modified at the September 26, 2024, November 25, 2024 and July 24, 2025 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 procure, and provide copies to the Board, of all applications, licenses and permits required by all federal, state and municipal agencies.

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

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

5. The Applicant shall provide architectural plans, certified by a New Jersey licensed architect, with building heights, floor areas, and grade elevations of all principal and accessory buildings and structures pursuant to L.O. 510-11(C)(3)(g).

6. The Applicant shall provide architectural plans, certified by a New Jersey licensed architect, with the location of all existing buildings, drainage and parking areas within two hundred feet (200') of the lot pursuant to L.O. 510-11(C)(3)(h).

7. The Applicant shall provide "will serve" letters from all utilities which will serve the lot pursuant to L.O. 510-11(C)(3)(k) and L.O. 510-11(D)(3)(s).

8. The Applicant shall obtain all necessary easements and/or rights-of-way over property belonging to the Town or within the Town's right-of-way or belonging to adjacent property owners or within adjacent property owners' rights-of-way.

9. The Applicant shall provide a complete list of the site improvements by item and the quantities thereof to be constructed along with cost estimates pursuant to L.O. 510-11(D)(3)(ee).

10. The Applicant shall apply for, and obtains, approval from all other agencies and governmental bodies which may have concurrent jurisdiction over this project including, but not limited to, the Town of Phillipsburg Fire Chief, the Town of Phillipsburg Chief of Police, the Town of Phillipsburg Sewer Utility, New Jersey Department of Transportation, the New Jersey Department of Environmental Protection, the Warren County Planning Board, Elizabethtown Gas, Aqua New Jersey and Jersey Central Power and Light ("JCP&L") and provide copies of permits to the Town pursuant to L.O. 510-11(D)(3)(ff).

11. The Applicant shall address any overall site maintenance issues based upon a review by the Town's Inspection Official.

12. The Applicant shall ensure that the sanitary sewer laterals, roof drains and downspouts are connected to the sanitary sewer system and shall be fully responsible for the cost of the same.

13. The Applicant shall coordinate with the Warren County Department of Public Safety and the Town of Phillipsburg Police Chief to ensure the building is properly numbered and addressed.

14. The Applicant shall replace sidewalks which are in disrepair, or which pose a tripping hazard subject to coordination with, and approval by, the Town Engineer and/or the Town Code Enforcement Officer.

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

The foregoing Resolution memorializing the action taken by the Town of Phillipsburg Land Use Board on the 28th day of August, 2025, was duly adopted at its regular meeting on the 25th day of September, 2025, by a majority of the aforesaid members.

WILLIAM DUFFY, Chairman

Dated: September 25, 2025