

**LOPATCONG TOWNSHIP ZONING BOARD OF ADJUSTMENT
REORGANIZATION AND REGULAR MEETING
JANUARY 13, 2016**

CALL TO ORDER BY CLERK MARGARET DILTS

PLEDGE OF ALLEGIANCE

OPEN PUBLIC MEETINGS STATEMENT: “adequate notice of this meeting has been provided indicating the time and place in accordance with Chapter 231 of the Public Laws of 1975 by advertising a Notice in The Star-Gazette and The Express-Times and by posting a copy on the bulletin board in the Municipal Building”.

Anthony Sposaro, Esq. swore in Kathryn Devos to fulfill the unexpired term of Joseph Barcik and also to Reappoint and Swear in Member Gus Rutledge.

ROLL CALL:

Present: Members DeGroff, Marchie, Devos, Larsen (7:25), Vice-Chairman Rutledge, Chairman Gary
Absent: Members Horun, Bittone and Unangst

ELECTION OF OFFICERS:

CHAIRMAN: Motion to Nominate Fred Gary

Motion by: Member DeGroff

Seconded by: Member Marchie

ROLL CALL:

AYES: Members DeGroff, Marchie, Devos, Vice-Chairman Rutledge and Chairman Gary
NAYS: None

VICE-CHAIRMAN: Motion to Nominate Gus Rutledge

Motion by: Chairman Gary

Seconded by: Member Marchie

ROLL CALL:

AYES: Members DeGroff, Marchie, Devos, Vice-Chairman Rutledge and Chairman Gary
NAYS: None

APPOINTMENT OF PROFESSIONALS

Motion to nominate Anthony Sposaro, Esq. as Zoning Board of Adjustment Attorney

Motion by: Member Degroff

Seconded by: Chairman Gary

ROLL CALL:

AYES: Members DeGroff, Marchie, Devos, Vice-Chairman Rutledge and Chairman Gary

NAYS: None

Motion to nominate Paul Sterbenz of Maser Consulting as Zoning Board of Adjustment Engineer

Motion by: Member DeGroff

Seconded by: Chairman Gary

ROLL CALL:

AYES: Members DeGroff, Marchie, Devos, Vice-Chairman Rutledge and Chairman Gary

NAYS: None

Motion to nominate George Ritter of RuggerioPlante as Zoning Board of Adjustment Planner

Motion by: Member DeGroff

Seconded by: Member Marchie

ROLL CALL:

AYES: Members DeGroff, Marchie, Devos, Vice-Chairman Rutledge and Chairman Gary

NAYS: None

For Record, Secretary for the Board is Phyllis Coleman

Resolution 16-01

Adopt Resolution 16-01 – To Approve Meeting Calendar, Professional Appointments and Official Newspapers (The Express-Times and The Star-Gazette)

R16-01

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND STATE OF NEW JERSEY
APPROVING ZONING BOARD OF ADJUSTMENT MEETING CALENDAR FOR THE YEAR 2015,
APPOINTMENTS OF OFFICIAL NEWSPAPERS AND APPOINTMENT OF PROFESSIONALS

NOTICE IS HEREBY GIVEN that the regular meetings of the Lopatcong Township Zoning Board of Adjustment will be held the second Wednesday of each month at 7:00 pm, except where otherwise noted below, at the Municipal Building located at 232 S. Third Street, Lopatcong Township, Phillipsburg, New Jersey.

IF THE SECOND WEDNESDAY of any month shall fall on a legal holiday, the meeting shall be held on the following day. The dates of the meetings are as follows:

Reorganization Meeting January 13, 2016

February 10, 2016

August 10, 2016

March 9, 2016

September 14, 2016

April 13, 2016

October 12, 2016

May 11, 2016

November 9, 2016

June 8, 2016

December 14, 2016

July 13, 2016

January 11, 2017 – Reorganization Meeting

Anthony Sposaro, Esq., Paul M. Sterbenz, Engineer of Maser Consulting P.A. and George Ritter of Ruggiero Plante Land Design LLC., Planner are hereby retained as Zoning Board of Adjustment Engineer and Planner. These awards are in accordance with N.J.S.A. 19:44A-20.5 et seq.

The Township Clerk through 2016 will prominently post a copy of the resolution in the Municipal Building, 232 S. Third Street, Lopatcong Township, Phillipsburg, New Jersey on the bulletin board and a copy shall be mailed to the Star-Gazette and The Express-Times, which are designated as the official newspapers for publication of legal notices for the Lopatcong Township Zoning Board of Adjustment pursuant to Section 3 (d) of the Open Public Meetings Act, Chapter 231 P.L. 1975.

CERTIFICATION

I, Phyllis D. Coleman, Secretary of the Zoning Board of Adjustment of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by the Zoning Board of Adjustment at the Reorganization Meeting held on January 13, 2016.

Phyllis D. Coleman, Secretary

Motion by: Vice-Chairman Rutledge

Seconded by: Member Devos

ROLL CALL:

AYES: Members DeGroff, Marchie, Devos, Vice-Chairman Rutledge and Chairman Gary

NAYS: None

Resolution 16-02

Adopt Resolution 16-02 – Adopt Robert’s Rules as a Basic Guide for Fair and Orderly Procedure in Meetings

R 16-02

RESOLUTION OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN AND STATE OF NEW JERSEY ADOPTING ROBERT'S RULES OF ORDER AS A BASIC GUIDE FOR FAIR AND ORDERLY PROCEDURE IN MEETINGS

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of the Township of Lopatcong, County of Warren and State of New Jersey, that Robert's Rules of Order Newly Revised 9th Edition is hereby adopted as a parliamentary authority for the procedure in meetings.

CERTIFICATION

I, Phyllis D. Coleman, Zoning Board of Adjustment Secretary, of the Township of Lopatcong, County of Warren and State of New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by the Zoning Board of Adjustment at the Reorganization Meeting held on Wednesday, January 13, 2016.

Phyllis D. Coleman

Zoning Board of Adjustment Secretary

Motion by: Vice-Chairman Rutledge

Seconded by: Member Devos

ROLL CALL:

AYES: Members DeGroff, Marchie, Devos, Vice-Chairman Rutledge, Chairman Gary

NAYS: None

OLD BUSINESS:

- Approve the Regular Meeting Minutes from December 9, 2015

Motion by: Chairman Gary

Seconded by: Member Marchie

ROLL CALL:

AYES: Members DeGroff, Marchie, Vice-Chairman Rutledge, Chairman Gary

NAYS: None

ABSTAIN: Member Devos

- **Berry Plastics – Block 99, Lot 2 – 190 Strykers Road – Carried from December 9, 2015 Meeting.**
 1. **Exceeding maximum FAR to 36.4% where 30% is permitted - §Section 143-77.3D(e) – FAR**
 2. **Permitting 100 parking spaces where 604 spaced required - §Section 243-50 – Parking**
 3. **Permitting rear-yard setback of 76’ where 80’ is required (existing non-conformity) § Section 243 Attachment 2 – setback.**

Attorney Peck: Thank you Mr. Chairman. Good Evening members of the Board, professionals, uh, for the record, my name is Mark Peck. I’m an attorney with the Florio, Perrucci, Steinhardt and Fader Law Firm, here representing STAG GI New Jersey, LLC, uh, which is the owner of the subject property, uh, upon which Berry Plastics, uh, is currently located and it’s a very important project. Uh, if we get this approval it will enable Berry Plastics to not only remain in Lopatcong, but also to expand its, its operations. Um, as the Chairman indicated, the property is located, uh, Lot 2, in Block 99, which is 190 Strykers Road; it’s a 15 acre site in your ROM, Research, Office and Manufacturing Zone District. Uh, there’s currently an 87,576 square foot manufacturing warehouse facility on site and we are seeking preliminary and final site plan approval with variance relief, as identified by the Chairman, to construct 150,000 square foot addition to the existing building. Uh, very briefly, at the end of last meeting, there were some questions relating to efforts to obtain, uh, adjacent property, um, to eliminate the need for the FAR Variance. Uh, we did prepare a letter, uh, which was mailed via regular mail, certified mail and Federal Express to the three property owners of record, David Deschler, uh David Deschler, Jr. and Candace Deschler. We ran that letter past, uh, the Board Attorney prior to mailing it and, and we did have his approval for that. Um, we made what we consider a very generous offer to, uh, obtain the property and ask that they respond by December 31st so we would be able to proceed tonight. We didn’t get any, anything back from them in writing. Um, I know we’re in danger, perhaps, of losing our Attorney Peck (Con’t): quorum, so I’ll be very brief, uh, we are seeking the preliminary and final site plan and the variances. We produced most of our testimony, uh, last month. We do have, uh, planning testimony to put on from, from Gregg Woodruff, but also, uh, resulting from not only the, uh, professional reviews, but the comments we heard at the Board Meeting. We did, uh, revise the plans, which we resubmitted and Chris Hager, who testified last month, he’s here and he can, uh, answer any questions that the Board has, uh, with regard to those plan revisions. So without any further adieu, I would like to call Chris Hager, uh, if the Board has any, any engineering, uh, questions relating to the changes that were made to the plans. And he was recently sworn.

Engineer Sterbenz: Yeah, just, uh, just to let the Board know, uh, Langen Engineering, and specifically Chris Hager, of Langen Engineering, prepared revised plans as well as a revised storm water management report in response to the previous review letters that George and I issued back in December. I think they were both issued on December 4th, um, and, uh, they were done to address those comments, also some comments the Board issued at the last meeting and also to address some comments that, uh, came up when we had a meeting with Mr. Hager on December 14th. Um, I feel that the revised plans and the drainage report addressed the (inaudible) share of comments. There are still some comments and you can

see that in the letter that I issued last week, however, I think the comments are fairly minor in nature and, uh, if the applicant were to indicate, uh, that they were going to address these comments, I, I see no reason why they couldn't be corporate as conditions into a resolution of approval, uh, cause I think they're all minor in nature or, or very easy to resolve, including the drainage comments.

Mr. Hager: We, we agree and we take no exception to the comments.

Attorney Sposaro: Thank you.

Chairman Gary: Are there any, uh,

Attorney Peck: Any other questions for Mr. Hager? Very good, thanks Chris.

Attorney Sposaro: Anyone from the public have any questions? Go ahead.

Attorney Peck: Okay, I'd like to call our Planner, Gregg Woodruff. I believe Gregg was sworn, uh, last month also. I think there was a group swearing.

Attorney Sposaro: Okay. I believe you. You're still under oath.

Mr. Woodruff: Thank you.

Attorney Peck: Gregg would you give the Board the benefit of your educational background?

Mr. Woodruff: Sure, so, uh, I am a licensed professional planner in the State of New Jersey; currently licensed, uh, as well as nationally through the American Institute of Certified Planners. Uh, a senior project manager at Langen. I've been involved in the project; have appeared before many Boards throughout the state, uh,

Attorney Peck: Including this Board.

Mr. Woodruff: including this Board or the Planning Board in Lopatcong. I forget if it was the Zoning or the Planning Board. I think I was the Zoning Board. Uh, and accepted as an expert in planning previously.

Attorney Peck: I would move Mr. Woodruff as an expert in the field of professional planning.

Attorney Sposaro: Go ahead.

Attorney Peck: What don't you just run through, us, the variances that are being requested tonight.

Mr. Woodruff: Certainly, um, so I'll, uh, obviously we, we need to discuss, uh, sort of two categories of variances; the FAR Variance as well as some bulk issues. So I'll run through the FAR Variance justifications first and then I'll run through the bulk variance justifications. Uh, there are some that are sort of related in nature, so I'll try and group them, because the justifications are, uh, similar in many cases, uh, so for the sake of, of everyone's sanity, I'll try to address ones that are similar in nature and

have similar justifications where I can. Um, so just by way of background, obviously the use is permitted in the zone and, and really the, the "D" issue here really relates to, uh, the FAR that's being requested which is 36.4%; 30% is permitted, uh, per case law as identified in Mr. Ritter's letter, uh, and is, is the standard. The proof really is that, uh, we're, or I am required to address, uh, any problems that might result from that additional floor area, uh, and how they might be mitigated. Not necessarily the use in and of itself, because the use is permitted. It's really a, a floor area issue, so that the perk justifications we'll, we'll walk through some of the problems that might result from additional building area or additional floor area, uh, that we are requesting and, and how those are not really issues and the site can accommodate those, those, uh, aspects of the project. Um, so the first thing that I'd like to address is just the, the overall size of the site as was mentioned. Uh, the site is a 15 acre site, a 5 acre, uh, lot is the minimum, so already the site is, is larger in nature and sort of inherently, uh, more equipped to handle a, a larger size building, uh, just by its nature. Um, in addition, from an overall lot coverage perspective, uh, even though the applicant is requesting additional floor area to what is permitted, the lot, the overall lot coverage is still about 10, a little less than 10% under what would be permitted on the lot. Um, so that the applicant is really not trying to, to max out the site, they are really to propose a project that's appropriate for this use, for this user, uh, on this parcel, uh, while not just asking for the maximum and exceeding that, that in every way. Um, from a storm water perspective, that's another classic, uh, impact that might result from a building than, that is larger than would be otherwise permitted. Uh, in this case, the storm water system is being upgraded, uh, and essentially you're ending up with a storm water system that would result that is not only treating additional storm water quantity and quality issues to, to the system that, that exists now, uh, but you'll see additional aesthetic improvements associated with those basins. So at the end of the day I think the, from a planning perspective, the story is really that the storm water management system that exists today would be dramatically improved, both by quantity and a quality perspective compared to what exists today in the future condition, um, mitigating any impacts, uh, from storm water. Uh, from a traffic and a, a parking perspective, uh, there's, there was a traffic assessment done, uh, that addressed those, the circulation around the site as well as traffic to and from the site. Uh, and that traffic assessment indicates no impacts on anticipated, from the operations of the building at the proposed floor area and size and, and operation of the building, uh, that's mitigating any impacts Mr. Woodruff (Con't): that might otherwise be perceived from a building that is larger than what is, is typically permitted in the zoning. Uh, the last, uh, issue that I would, I would note is one that I believe we, we've gone back and forth, we obviously made an initial, uh, proposal relative to the site landscaping to try and, uh, you know, marry it, uh, an anesthesiologically pleasing landscape with, a, a project that obviously, uh, is a bigger building than would be otherwise permitted, but you know, overall the attempt was to create an anesthesiologically pleasing site. We continued to work with the Boards professionals to, to try and address additional comments relative to that landscape design, uh, to further that intent and, and meet some requests that were made. So from that perspective, again, a building that is larger than what otherwise be permitted might be perceived to, to dominate a site or create an anesthesiologically displeasing site, uh, but we believe the application, with a combination of the landscaping that's proposed has really mitigated that potential, uh, and, and will result in an overall trac, very attractive project, uh, both the building and the landscape. Uh, from the, the prospective of the negative criteria, uh, my assessment would be that there is no sub, substantial detriment to the public good. Um, you know, the existing facility has not created a laundry list of complaints from surrounding neighbors relative to nuisance conditions. Uh, it's essentially an expansion of what happens there today, so there's no reason to believe there would be additional or, or new nuisance conditions that might result from a building that is

essentially just a little bit bigger than the one that, that would be otherwise permitted and is doing what happens there today. Um, there are some other, uh, uh, aspects of how the facility gets operated; there's actually a certification, it's called "The Good Manufacturing Practices, uh, Certification" that's, uh, administered by a, a federal agency and this facility falls under those guidelines that, and has that Certification, which is just sort of another effort on the, on the operators part to, to sort of be a good operator of a facility like this, uh, at this location. Um, in my opinion, there's no substantial impairment to the intent and purpose of the zone plan, uh, as it is an expansion of a permitted use, an, an operating use currently, uh, and it's to a certain extent at the minimum, uh, exceedance of the FAR, when you factor in some of these other mitigating, uh, factors including the overall, roughly 10%, uh, deviation or, or amount that of, of cover that could exist on the property, otherwise, if, if they were to choose to, but they have not chosen to do so. Um, so based on those specifics I, I believe there is no negative impact, uh, to the public good as a result of the project. Uh, the potentially impactful conditions that might result from a building that is larger than the permitted floor area, uh, are mitigated and, and, uh, addressed the proof standards for an FAR exceedance. Um, relative to some of the bulk, uh, exceedances, like I said, I, I'd like to address a couple of them that, that have similar proof, or, or similar issues that result, uh, in grouping here. So relative to the parking design, there are a couple bulk variances that result from the, the parking proposal, those include the minimum number of parking spaces, um, parking in the front yard, uh, as well as some, some open space in the parking area. Uh, so the parking design really results from a couple different factors, uh, one of which is the, the actual users, uh, program for the parking that they need so the number of parking spaces really derives right from the number of people on shifts that work at the facility and who, who those people are in a facility like this. So even though the code, uh, requirement is, you know, seems dramatically larger than, than the number of parking spaces being proposed, uh, the number of parking spaces proposed has really been right size for this facility, this user, uh, and they have a significant amount of historical operational data to back that up and, and those number of spaces. Uh, relative to the location of some of those parking spaces in the front yard, that really falls out of the fact that the site is somewhat unique in that it's a little bit linear, you know, long and linear along the road there. So you end up with, with just some difficulties in, in locating parking in, in some other areas as well as where the existing front door location is and try to keep some of those parking spaces approximate to that, that existing front door, which really can't be moved based on the operation and, and the equipment that exists in the building today. Uh, and the last one, was some Open Space areas that would otherwise be required in a parking field; uh, in, in this case there, there are open space areas that have been accommodated again because of that unique shape of the lot and the way that the parking spaces ended up in, in the front of the building and around that existing front door. Um, there are just, it creates some difficulties in creating Open Space pockets or island areas within the parking field itself. However, we've worked with Mr. Ritter to try and create, uh, some very, you know, approximate adjacent areas that would be maintained as Open Space, landscaped accordingly, so that there is still that feel to, to match that intent, uh, of that Open Space requirement, but it's just not necessarily in the field itself. Um, couple of the, the other bulk issues, uh, the, that I'd like to address, uh, as a group are, uh, the minimum rear yard, uh, setback. Uh, we are essentially proposing to match the existing rear yard setback that exists, so to a certain extent we, we're matching an existing non-conformity which really only varies by 4', 80 is the requirement; we're proposing 76 which exists, uh, and it's really just to create a clean building line in that area, um, which again, it makes planning sense, uh, and is a very de minimis, uh deviation to begin with. Uh, the, there are some bulk issues related to, uh, landscaping, specifically in the buffer strip, um, and, and I, I think there's some technical issues relative

to how that buffer landscaping calculation took place and this is an area that we specifically worked back and forth with Mr. Ritter on. Uh, I think the issue from a planning perspective here is that the applicant has worked really hard to maintain some existing vegetation that is, uh, on the north side of the building, uh, and the northeast side or, north and northeast side of the lot, uh, referring to drawing LD101. Essentially you can see on the drawing along the northern property boundary and the northeast property boundary, there's an existing wooding, wooded area, that rather than break, tear that down and plant new, it just makes so much more sense to maintain and preserve that area and then supplement it in other areas. Uh, there's also some challenges related to some right-of-way areas that really can't be fully planted with large vegetation, they need to be maintained more as seeded areas. Uh, so a combination of those things has really driven the deviation, but again, we, we've worked pretty diligently with Mr. Ritter to, I believe, accommodate and really meet the intent of this requirement and create an overall pleasing landscape design. Um, and then the last two, I believe the other that relates to the buffer, buffer strip is there, uh, there's a, an emergency vehicle turnaround area that's proposed, uh, in the rear of the building it, it's going to be a reinforced turf grass, duh, turnaround area. So to the extent that we could meet the intent of a buffer strip, we have done that, but the hope was that there could be additional emergency vehicle, uh, access provided with that turnaround so you get additional coverage from an emergency vehicle in the rear of the building, which is really just a benefit for everybody, uh, to have better emergency vehicle coverage to, you know, further parts of the building while still meeting the intent of that buffer strip with a, a reinforced grass turf turnaround. You know, the hope is that for all intents and purposes, you don't know that you're not in the buffer strip except when the emergency vehicles know exactly where to go to turn around. Um, and then the, the last one that I'd like to address, uh, or, or the last two relate to, uh, the sign that's proposed to be relocated. Uh, the applicant is proposing to reuse their existing sign and, and just reposition it, relocate it on site. Uh, from a planning perspective, uh, basically there are two technical issues that are triggered there; the existing sign exceeds the permitted height, uh, and it exceeds the permitted, uh, area. Uh, in, in this case, I, I would, I would offer that from a planning perspective, the existing sign has a lot of recognition value with, you know, the existing employees, existing visitors to this site; uh, existing suppliers to the business, so reusing that existing sign and, and the recognition that goes along with that, while repositioning it in a little further from the road, actually, uh, makes a lot of Mr. Woodruff (Con't): sense and, and even though that the site does deviate from a height perspective and an area perspective, it is an appropriate sign, uh, to notify visitors, employees, deliver, uh, personnel as to the location of the, the property and they're used to seeing that physical sign. So to the extent that, that we don't have to change that sign, uh, I think from a planning perspective it makes a lot of sense for the efficient, uh, ingress-egress to the property of those who use it on a regular basis. Um, all of these bulk issues from my prospective, uh, you know, don't create a substantial detriment to the public good or a substantial impairment to the intent and purpose of the zone plan. These bulk issues are, are either very de minimis or are caused by unique, uh, configurations of the lot, uh, or just have to create benefits of, of use of the property that outweigh any, any impacts that might result. Uh, so in, in my opinion, both from the perspective of the FAR Variance and, and the bulk variance, bulk variances, uh, the proof standards have been met; the variances are justified and, and could be granted by the Board if, if they see fit.

Attorney Sposaro: Do the Board Members have any questions?

Planner Ritter: Well, yeah, in terms of, uh, the applicant, the applicant has made quite a few changes to the plan, uh, from the first presentation. They added additional landscaping, uh, he's also changed the

fencing style on the berm of the property; he changed it from basically the black, uh, vinyl type fencing to, uh, uh, it's basically more of a board fence, uh, which I think will help, uh, tone down the closeness of the detention basins to the road. And, uh, he's also added a substantial landscaping in the parking, uh, so I think he's made, uh, extensive improvements to the plan. The variances in terms of planning, to me have been reduced to very minor issues, uh, even though a percentage of the buffer has not been planted, uh, they have installed, virtually the full amount of trees that is required by (inaudible), they just didn't spread them out over a bigger area, so, I think they've made improvements there. The change in the plan, also as we said, eliminated two, two of the variances total. He's put in the sufficient trees along Strykers Road and also installed the required lighting within the parking, so. So all in all, I think the plans have been improved, uh, and also I think that the (inaudible) applicant has made a valid effort to address the comments I had for him. The only issue that I had left, that I mentioned, was in the landscaping plan, just to carry the landscaping around the northern edge of the parking lot. It's about, I don't know, probably 50 to 100' more; to just wrap it around there.

(Inaudible)

Planner Ritter: Yeah, you know, just the side, just through there, to bring it into the (inaudible). Uh, but all in all, I think you did a good, a very good job at adjusting the plans and, uh, I do think it will, uh, when it's installed and built out there, we'll have nice (inaudible).

Attorney Sposaro: George, your recommendation is that the plan be modified to supplement?

Planner Ritter: Yes, I would like to see, uh, the plan just add some additional landscaping, uh, carry it around the, I call it the northern edge of the parking area, but I think that's my only additional recommendation from them.

Attorney Sposaro: So that, that will be subject to Mr. Ritter's review.

Planner Ritter: Yes, and, and I guess the only other question which we had covered, is the applicant obviously had made repeated attempts to, uh, either purchase or talk to the property owners to the rear, which we always considered to be a very important issue in this plan. Um, because of the back property, that has nothing to do with the property that's proposed tonight, but the back property is essentially (inaudible). And there was some hope that they could, uh, come to some agreement and, uh, get a little extra property with this site to make the, uh, floor area ratio work and the real property we could have got some direct access to Strykers Road. Uh, I believe the applicant has made a very honest effort to determine that. Obviously, the people in the back are not interested, and we'll just have to deal with that issue if and when they decide to come to the Board to develop that property.

Attorney Sposaro: Uh, just to chime in also on that last point from a legal perspective. I'm satisfied with the effort that has been made by the applicant to acquire additional property. I think there's been a real substantial effort; I did review and approve a formal letter that went to the property owners and as I understand it, uh, there was no written response and there was some verbal response by an individual saying they would get back to you in the summer. I wish it was summer, given (inaudible), uh, time

marches on and I know this applicant's anxious to move forward. So completely, I think they've done what they're required to do.

Chairman Gary: Okay. Any, any other questions or comments? Gus?

Vice-Chairman Rutledge: Do you have any comments Paul? You're happy with

Engineer Sterbenz: I'm, I'm satisfied with the plans. I think a big effort was made by the applicant; the plans are significantly improved. The applicant's engineer has noted that he will address the technical comments in my letter as a condition of a, of approval. I would just suggest it to the Board, in the last section of my report, there's a number of recommended conditions, that any, uh, vote tonight, uh, include that, that particular, those particular conditions in the, uh, end of my report as conditions for the, uh, approval.

Attorney Peck: And, and if I may add, um, as a condition, as you know, uh, STAG and Berry are very eager to get a shovel in the ground and, and start construction. Uh, we did prepare a, a phase-in plan for construction. There's, there's six stages; only the last stage is contingent on, uh, connecting with the sewer system. So we would ask that, uh, we be permitted to start work on Stages 1 through 5, uh, with the understanding that Stage 6 can't commence until we can connect to the sewer system, cause that's gonna take, that's gonna take some time.

Engineer Sterbenz: Um, I'm good with Phases 1 through 3; I'm a little apprehensive about 4 and 5 cause the building is going to be up and we don't know if there's going to be sewer line to the building. So, uh, I think that, that's something, uh, that's concerning and going through an issue with the DOT right now in Hackettstown, where we allowed somebody to start building the building without DOT approval. So, and, and it was represented they were going to have them in September of 2014; the DOT has still not signed off right now with the building up, so. Um, that, that's a concern. I think certainly the first 3 phases, which allows for a lot, a lot of site work to get going; I think it is very reasonable that we would allow a lot of things to get done while they're waiting to get there approvals from the sewer. Once they get their approvals for the sewer, they can start putting up the building.

Attorney Sposaro: I might also suggest that if you get to the point where you completed Phases 1 through 3, and you still don't have, uh, the approval to tie-in, perhaps you can come back to this Board based on where you may be in that process and what information you have. We may be able to modify it, but to take that leap at this point in time may be just too big of a chunk.

Attorney Peck: Okay, that's, that's certainly reasonable and we appreciate that.

Engineer Sterbenz: What will, what will have to happen is, we'll have the structure of working through the resolution. Uh, we can let them go, but they still have to have the plans approved; they'll have to have all their other approvals in place; they'll have to have the developer's agreement in place so we'll have a (inaudible) bonding in place of the attended pre-con meeting. So all the other stuff that normally comes along with this, that this will have to get done.

Attorney Sposaro: Understood. Applicant okay with that, understand that?

Attorney Peck: Yes, thank you.

Chairman Gary: Any other questions, comments? Uh, is there, is there anyone from the public who's not is some way connected or associated with Berry? Okay.

Vice-Chairman Rutledge: I move to, uh, approve to proceed to grant the variances.

Attorney Sposaro: The, the appropriate, uh, motion, if you are in favor of this application would be to grant a preliminary and final site plan approval and also to grant the variances for, uh, exceeding FAR and also the bulk variances that have been identified both by the applicant and by our planner in his report, subject to all the conditions that have been mentioned on the record, together with those specifically set forth in Mr. Sterbenz last report, dated

Engineer Sterbenz: It was January 8th,

Attorney Sposaro: January 8th, as well as the additional landscaping mentioned by, uh, Mr. Ritter to see if he can get the applicant (inaudible). That your motion?

Vice-Chairman Rutledge: So moved.

Attorney Sposaro: I thought so. Is there a second?

Second: Member Marchie.

ROLL CALL:

AYES: Members DeGroff, Marchie, Vice-Chairman Rutledge, Chairman Gary

NAYS: None

ABSTAIN: Member Devos

Attorney Sposaro: Congratulations.

Attorney Peck: Thank you very much. Appreciate the Boards, uh, help with this.

Attorney Sposaro: Mark, at some point I'll get you a copy of the draft resolution.

Attorney Peck: Perfect.

PAYMENT OF BILLS:

Anthony J. Sposaro, Esq.	To attend December 9, 2015 meeting	\$250.00
	Dec. 2, 2015 – Berry Plastics Application	\$187.50

Dec. 9, 2015 – Review Reports from Planner And Engineer	\$250.00
Dec. 15, 2015 – Telephone communication for Application and Review Letter	\$ 62.50
Total	\$750.00

Motion by: Chairman Gary

Seconded by: Member Marchie

ROLL CALL:

AYES: Members DeGross, Marchie, Vice-Chairman Rutledge, Chairman Gary

NAYS: None

ABSTAIN: Member Devos

PUBLIC COMMENT:

No one from public present

MOTION TO ADJOURN:

Motion by: Vice-Chairman Rutledge

Seconded by: Member Marchie

ALL IN FAVOR: AYE

NAYS: NONE

Respectfully submitted,

Phyllis D. Coleman
Secretary, Zoning Board of Adjustment

Fred Gary
Chairman