

**KNOWLTON TOWNSHIP ZONING BOARD OF ADJUSTMENT
RESOLUTION OF MEMORIALIZATION**

**Approved: May 2, 2023
Memorialized: June 27, 2023**

**IN THE MATTER OF
AT TRUCK STOP, INC.
PRELIMINARY AND FINAL MAJOR SITE
PLAN AND VARIANCE APPLICATION
LOT 16, BLOCK 55
APPLICATION NO. ZB21-001**

WHEREAS, AT Truck Stop. Inc., (hereinafter known as the “Applicant”) filed an application for bulk and use variances approval with the Township of Knowlton Zoning Board of Adjustment (hereinafter known as the “Zoning Board”) on May 17, 2021, and

WHEREAS, the application was deemed complete on August 3, 2021, and

WHEREAS, public hearings with notice were held on October 5, 2021, January 4, 2022, March 1, 2022, June 7, 2022, September 6, 2022, October 4, 2022 and May 2, 2023, at which time the Zoning Board rendered its decision on the application in accordance with the requirements of N.J.S.A. 40:55D-10(g), 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, 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, 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 Township of Knowlton, the Applicant and the public for this Application to proceed without further delay, consistent with the Executive Orders of the Governor 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 Zoning Board at in-person meetings on September 6, 2022, October 4, 2022 and May 2, 2023, and,

WHEREAS, it has been determined that the Applicant has complied with all of the rules, regulations and requirements of the Zoning Board and that all of the required provisions of compliance have been filed with the Zoning Board, and

WHEREAS, because of the history of this application, this Resolution includes the procedure by which the application was reviewed and approved.

The application hearing process was commenced on October 5, 2021. It was a virtual hearing pursuant to the regulations of the Executive Orders of the Governor of the State of New Jersey regarding the COVID-19 pandemic. These virtual hearings continued through the meetings of January 4, 2022, March 1, 2022 and June 7, 2022. Thereafter, the meetings were held live at the Municipal Building and notice was provided by the Applicant to inform the public. Those hearings occurred on September 6, 2022, October 4, 2022 and September 2, 2022.

The balance of the Resolution outlines the testimony that was received during these hearings. The initial determination was made by the Zoning Board of Adjustment at its October

4, 2022 meeting wherein it granted approval of the preliminary and final major site plan along with use and “c” variances with the exception of a denial regarding the freestanding signs proposed by the Applicant.

Subsequently, prior to the memorialization of this action, the Applicant requested an opportunity to have the Zoning Board reconsider the issue of the freestanding signs with a modified application which the Board found to be substantially different. As a result of a hearing that took place on May 2, 2023, the Zoning Board approved the proposal for a single freestanding sign and this Resolution of Memorialization incorporates the original approval for the preliminary and final major site plan, “d” and “c” variances and the specific approval for the freestanding sign on site.

WHEREAS, the Zoning Board has received as part of the hearing process the following testimony and documentary evidence submitted by the Applicant and its consultants, the Zoning Board staff, and members of the public:

The Applicant is the owner of property known as Lot 16 in Block 51 on the Tax Map of the Township of Knowlton. The street address for the Applicant is 71 US Route 46, Delaware, New Jersey, 07833. The Applicant seeks a preliminary and final major site plan together with “d” and “c” variances and design waivers. This is occasioned by the fact that the Applicant, upon acquiring the property, made numerous improvements without obtaining and/or site plan approval. As a result, the Applicant was issued zoning violations. These violations included improvements to the property as well as removing oil from the property which required NJDEP evaluation and approval.

The property had been previously designated by the Zoning Board of Adjustment as a preexisting nonconforming truck stop by way of a Resolution adopted on August 7, 1990. The

subject site is currently developed with a truck stop with gasoline and diesel fuel dispensers, a restaurant, convenience store and office. Other existing site improvements include signage, a gasoline service island with canopy, a diesel fuel island service with canopy, 16 vehicle parking spaces along the building and the westerly portion of the site, and 10 truck parking spots at the easterly end of the parcel. The Applicant submitted 10 prior approvals which were made a part of the record.

The Applicant is seeking to obtain variances for work completed by way of expansion of the convenience store floor area including the addition of the exterior beverage coolers, trash enclosure within the landscape berm area, pole-mounted site lighting, canopy lighting and canopy signage, all of which would require an expansion of a preexisting approval nonconforming use. The Applicant is also seeking approval for the following proposed improvements: to remove one (1) existing freestanding sign and install two (2) proposed freestanding signs, and to remove two (2) roof-mounted signs and install two (2) wall-mounted signs and to install a propane tank for propane filling.

Mr. Oktay Top testified on behalf of the Applicant. He is a principal of the Applicant. He advised the Board that he had purchased the property in 2019. He had received a construction permit to make renovations to the property. He noted that the property frontage along US Route 46 is over 500 feet. He proposes to replace the existing freestanding sign with two (2) freestanding signs located at the westerly and easterly ends of the site. He advised that when people see the one (1) existing sign, they are already passed his property and, therefore, he needs the additional sign at the other end of the property to advise members of the traveling public that his site is available for use.

Mr. Top responded to a concern that was raised regarding contamination of the portable

water on site. He indicated that there had been violations, but repairs had been made. He submitted test results from April of 2021 and December of 2021 showing that the water was safe to drink. As of the date of this testimony, the NJDEP had not yet inspected the property. Therefore, the signs inside the property indicate that water should not be consumed were still present.

It was pointed out to Mr. Top that a portion of the berm that had been in existence on the site had been removed. It was also noted that a front portion of the berm had been removed and replaced with a concrete wall. Mr. Top indicated that the cut into the berm was to provide access to a property that was owned by him adjacent to the site (Lot 14).

There were also questions raised as to when he actually acquired the site. Mr. Top clarified that after he purchased the site, he closed the site from May 15, 2019 until January of 2020. He obtained construction permits from the construction office and started construction in February of 2020 which was completed in May of 2020. Those were renovations to the site that including the cutting of the berm, the construction of the concrete wall, the upgrade of interior of the building and the removal of trees on the site. There had been violations issued by the Township Zoning Officer on October 13, 2020 for activity that was inconsistent with the Zoning Ordinance or prior approvals from the Planning or Zoning Boards. The Applicant had also installed exterior lights which were apparently part of the construction approval but not approved by any Zoning Board action.

Mr. Jasvinder Arjani of Bertin Engineering testified on behalf of the Applicant. He confirmed that the property is in the C-1 Neighborhood Commercial District and that it is a multi-use facility including a truck stop which is preexisting nonconforming truck stop, convenience store and a restaurant. The convenience store and restaurant are permitted uses in

the C-1 District but the truck stop is not permitted. He further noted that the property is abutted by Clinton Street to the west, to the north is residential, across Route 46 is a vacant lot and to the east is a garage facility. The property is approximately 2.68 acres in size.

Physically, he noted that the restaurant that occupies approximately 722 square feet with a shower for drivers. The total area for the restaurant and truck stop amenities areas is 1,722 square feet. There is a convenience store of 709 square feet including the expanded beverage cooler area. The prior convenience store was 399 square feet as per the 1997 approved site plan. There is also a shed in the back 20x10 for storage. He further noted that there are two (2) filling areas, one (1) for cars and pick-up trucks and the other for tracker trailers. They each are covered by canopies. There is a vacuum area to the west, a dumpster, five (5) free standing lights. There is one (1) free standing sign on the westerly portion of the site. There are two (2) existing roof signs that they intend to remove subject to approval of this proposal. He testified there are 17 car parking space and 11 truck parking spaces. He noted that they were seeking to provide permanent outdoor seating which would eliminate three (3) other car parking spaces. Coverage on the site is approximately 70%. Frontage is approximately 660 feet along US Route 46.

The building contained a convenience store which had an addition which requires a variance approval. He noted that the canopies are illuminated. There is a sign on the gasoline canopy that is internally lit. In addition to the vacuum area, there was also a facility for filling tires with air. He also noted that there are "no idling" signs on site. He noted that there is a fire lane that the Applicant intended to stripe to eliminate truck parking along the berm area.

Mr. Arjani testified that they are proposing an outdoor seating area including 16 seats. He further advised that this was not intended to increase the number of overall seating within the property.

At the time of Mr. Arjani's testimony, the Applicant was seeking approval for a propane tank of 1,000 gallons, which would require the removal of a portion of the existing retaining wall and construction of a new retaining wall and fence within berm. The Applicant later withdrew the request for the propane tank.

Mr. Arjani also noted that there are currently five (5) light poles approximately 20 or 21 feet tall and that there are two (2) light fixtures on each pole. Mr. Arjani testified that the Applicant would reduce the height of the light poles to comply with the 16-foot height restriction and the fixtures would point downward and contain shielding to comply with the lighting Ordinance. He further advised that there would be the removal of the two (2) roof illuminated signs as part of this application process. Mr. Arjani noted that the Applicant is proposing two (2) wall signs on the building. Each sign is 26 square feet. They are proposing signs on the canopies. There are existing illuminated signs on the gasoline and diesel canopies which are proposed to remain. There is also a flashing neon sign indicating "open" on the kiosk underneath the canopies which are to be removed.

The freestanding sign is currently on the westerly side of the site which is 21 feet high. The Applicant is proposing to remove the existing freestanding sign and erect two (2) new freestanding signs with the height of 24.67 feet, one (1) located at the westerly portion of the site and the other, the easterly portion of the site.

Concerns had been raised in regard to NJDEP violations regarding contamination. As a result, the Applicant presented Mr. Michael Betts, of Betts Environmental, regarding tank removal. He testified that he is a tank removal expert and licensed by the NJDEP for installation, removal, modification and subsurface tank maintenance. He testified that he had been retained on the site to remove three (3) 10,000-gallon tanks, to drain the pipes and the tanks, to remove

the tanks and pipes and to test the soil. He noted that the soil that was contaminated was removed and taken to appropriate locations by licensed haulers. Mr. Ed Sullivan, a Licensed Site Remediation Professional (LSRP), had been retained to issue a Response Action Outcome (RAO) to determine that the site was clean of contamination relative to the tank removal process.

As a result of discussions that took place during earlier meeting, Mr. Arjani submitted revised plans dated October 20, 2021. He clarified that in May of 2019, there had been retrofitting done to the site which included the canopy, new paving, the addition of concrete blocks, moving of tanks and modifying of lights. He also testified that the building that was on site had previously been 2,350 square feet. Its current size is 2,631 square feet. Therefore, it was an expansion of approximately 300 square feet. He further noted that the canopies for the truck and the car areas are essentially the same. He testified that modifications are to the signage. He also advised the Board the impervious coverage in 1997 was at 77.9%. It is now 76.7%. Mr. Arjani confirmed that the pedestrian access between the subject property and Lot 14 had been completed by the Applicant. The intent was to specifically to benefit Lot 14 which was owned by the Applicant. He indicated that if Lot 14 was to be divested by the Applicant and sold as a single lot, they would fill the gap. It is currently the pedestrian walkway.

There were ongoing discussions between Board members and the Applicant as well as members of the public. They included the impact of the prior approvals and the activities that have taken place since those prior approvals and whether or not the modifications by this Applicant were consistent with prior approvals. As a result of those discussions, the Applicant submitted revised plans date May 18, 2022. They indicated that they would close the gap in the berm. They also agreed that the concrete blocks to the east and west of main part of the berm

would be removed. They did indicate that some blocks would be maintained to support the wall structurally. With regard to the freestanding sign, they agreed to provide a 15 foot front yard setback for both of the freestanding signs. The sign area would be reduced from 105.3 square feet to 86.2 square feet. They also agreed to add evergreens and box woods on the berm for an additional 70-80 plants to recreate the understory that had been removed.

With regard to lighting, they agreed to decrease the intensity of the lighting from 4.25 foot candles to 2.51 foot candles. The maximum would go from 45 foot candles directly under the canopy to 15.34 foot candles to a minimum of zero. They also agreed that the light poles would be a maximum of 16 feet high. There would be two (2) wall mounted lights directed downward. At that time, they were also seeking a waiver for the containment area for the propane tank since there is generally no leakage from a propane tank. The request for the propane tank was thereafter withdrawn.

With regard to the freestanding signs, they requested 24.5 feet height. They were seeking three (3) building signs that would be 26 square feet versus the 24 square foot permitted. The restaurant sign would be red, white and blue. They agreed to add a pedestrian sign from the building to the propane tank for safety purposes and that the propane would only be dispensed by employees. They agreed to add more "no truck parking" signs by the berm so that trucks would cease parking along the rear area.

With regard to the infill on the berm, the Board Members questioned the size of the plantings. They agreed that the box woods would 3-4 feet at planting and the evergreens would 10-12 feet at planting. They would also agree to meet with the Township Engineer and Planner to suggest the appropriate type of landscaping and shrubbery for the site to avoid invasive species and those which would be attractive to deer. They also agreed to provide for electric

power to the truck parking area so that the trucks would not be idling beyond that which is authorized by the State, which is 15 minutes. They also agreed to reestablish a telephone hotline in the event of violations as required by Condition #12 in the 1992 Resolution, as follows:

“12. The Applicant shall provide a hotline telephone number to be available to all abutting property owners in a matter to be approved by the Zoning Board Attorney. Said hotline shall be used by the public to alert the Applicant’s staff of violations of the terms of this approval. The Applicant shall further instruct all employees regarding the limitation of idling on site for not more than 15 minutes. There shall be a prohibition against storage of vehicles on site. The employees shall be instructed to enforce said regulations when requested to do so through of the telephone or when observed on site. Parking on site shall be limited to four (4) continuous hours. Due diligence will be required for the enforcement of these regulations.”

The Applicant presented Ms. Jessica Caldwell, a licensed Professional Planner in the State of New Jersey. She acknowledged that this is a preexisting nonconforming use. She indicated that the convenience store is a permitted use, but the truck stop is not. The expansion of the convenience store is rather limited in her opinion. She noted that most of the activity that took place on site is for rebranding and improvements of the property to look more modern and to clean it up. She testified that there had been photos showing the before and after and opined that there had been major aesthetic improvements to the site by this Applicant in an effort to improve the character of the neighborhood and the aesthetics of the property. She testified with regarding the freestanding signs. There is such a large frontage that the two (2) freestanding signs were appropriate. Given the length of the property, she opined that the property could potentially be subdivided into five (5) lots and therefore five (5) individual signs hypothetically could be located on site if it were subdivided. She believes that the request for the additional

freestanding sign was appropriate. She pointed out that the Applicant agreed to locate the freestanding signs in accordance with the ordinance as regards the front yard setback. The freestanding signs are 80.2 square feet versus 24 square feet permitted.

With regard to the criteria for the “d” variance, she opined that the site can accommodate the deviations. She also testified that there was a significant aesthetic improvement to the site which advances Purpose (i) of the Municipal Land Use Law. She also believes that the lighting which is now being reduced and the light fixtures will be a concealed source so as to eliminate or reduce the glare to surrounding properties is an improvement to help safety and welfare which reduces Purpose (a) of the Municipal Land Use Law. She also believes that this is an appropriate use of the property with a variety of uses that have been in existence for a long time and now have been improved which advances Purpose (n).

With regard to the negative criteria, she believes that the convenience store is already authorized by the zoning. She again notes that the extra freestanding sign is predicated upon the unusual shape of the lot in that is over 600 feet in length and therefore creates visual problems for the motoring public. The additional sign in her opinion would result in better traffic safety for the motoring public who would be able to see the site at a safe and convenient distance. She also pointed out that having reviewed the Master Plan, one of the Purposes of the Master Plan is to make nonconforming more conforming, which is what she believes this Applicant has done.

The Board incorporated the testimony and comments of its Planner, Mr. Daniel Bloch, and incorporated his reports of July 23, 2021, January 3, 2022 and May 1, 2023. The Board also incorporated the testimony and reports of its Engineer, Mr. Denis Keenan, and his reports from French & Parrello dated May 28, 2021, October 1, 2021, November 30, 2021, February 28,

2022 and May 2, 2023.

The meeting was opened to the public and the members of the public testified in regard to their concerns regarding the site. They submitted evidence by way of photos of the glare from the site that presently exit into the neighborhood. The photos included views from Clinton Street from Route 46 and the glare from the lights as well as the visibility of the blue band on the canopy. There was also concern that the facility is not in keeping with the historic character of the Village of Delaware. It was also pointed out this site is very close to the historic sign indicating, "Welcome to the Village of Delaware" and the feeling that was that this site degrades that historic ambience. There was also concern that the LED lights are not in character with historic village.

With regard to lighting, it was noted that under the current ordinance, the lighting does not comply with the average lighting or the average ratio.

Mr. Denis Keenan testified that based on the current plans, the light at the property line with neighboring properties to the east is zero foot candles and that the height of the pole is now being represented to be 16 feet in height. He also noted that illumination is reduced to 10 foot candles and that the flood lighting is proposed to be removed and all the lights are now proposed to be pointed downward and shielded.

Mr. Bloch testified that freestanding signs should be at 17.5 feet from the right-of-way and property lines to comply with the front yard setback. Mr. Bloch noted that the Board previously approved the existing 21 foot tall freestanding sign to be replaced with a 24.7 foot tall freestanding sign in the same location, which was never erected. The Applicant is now seeking to construct two 24.5 foot tall signs closer to the street than the existing sign. If there is an illuminated "open" sign on the building or the kiosk, they should be removed. He noted

that if there are two (2) freestanding signs, there is compliance on the setback from Clinton Street but not on the easterly sign to the next side property line. Mr. Bloch suggested that if the Board was in favor of two freestanding signs, they would be smaller monument style signs rather than both being oversized pylon signs. He felt that the need for visibility of gas prices needs to be balanced with the historic character of the C-1 Neighborhood Commercial Zone. While it must be acknowledged that the truck stop is a preexisting nonconforming use and the proposed signage is typical for a truck stop use along a major highway, there should be special consideration for the particular location of this facility within the historic Village of Delaware. Mr. Bloch pointed out that the 2020 Master Plan Reexamination Report establishes a Master Plan Objective against the proliferation of automobile service stations and truck stops in the Township because he notes that service stations are generally inconsistent with the rural character of the Township and have a high risk of pollution and contamination of the Township's rich environmental resources.

Mr. Bloch also noted that the building signs would be lit by soffits, not individual lights. He also recommended there should be no storage of trucks or trailers on site at any time and there would be no outdoor advertising signs or other displays sales on the sidewalks round the building. He suggested that there be a pedestrian stripe walk on the westerly side from the building to the Clinton parking area. He also suggested that the berm should be extended to the end of the trees which with tampering and that the berm plan in terms of the planting should be monitored by the Board staff.

Because of concerns raised with regard to the request for two (2) freestanding signs, the Applicant requested an opportunity to present an alternative plan. This request was made after the Board voted to deny the request for the two (2) freestanding signs as it related the procedural

history in the prior “whereas” clauses. The Board granted that request and as a result, the Applicant submitted a sign plan entitled, “Sign Plan, Reimagining Plan – AT Truck Stop, Inc.” prepared by Bertin Engineering consisting of one (1) sheet and dated March 23, 2023. The plan submitted eliminated the easterly freestanding sign. The Applicant agreed to submit a 21 foot high freestanding sign in the location of the existing sign meeting the Ordinance front yard setback standard. As part of that submission, the Applicant agreed that if this proposal was approved, the Applicant would remove the two (2) signs on the roof of the building. It was also agreed that the sign would have a dimmer device that could allow for a reduction in intensity. That intensity and the mechanism of that device will be reviewed and approved by the Township Engineer.

The Board also noted on the plan that there was a reference to a mobile sign. The Applicant indicated that they did not believe such a sign existed, and it was really a map error. They agreed to eliminate the reference on the map and that if a mobile sign did in fact exist, it would be removed. Finally, it was agreed by the Applicant that on top of the sign there was a rectangle that had the number “71” on top, which apparently represented the street address. The Applicant agreed to remove that appendage.

In addition to the testimonial evidence, the Applicant submitted the following documentary evidence:

Exhibit A: January 22, 1985 Resolution for subdivision.

Exhibit B: June 25, 1985 Resolution for freestanding sign, fuel tank and fueling station.

Exhibit C: August 25, 1990 Resolution for subdivision creating a 2.68 acre lot.

Exhibit D: August 15, 1990 Resolution determining that the property was a

preexisting nonconforming use.

Exhibit E: July 16, 1992 Resolution realignment of Clinton Street as part of a Whispering Woods hearing.

Exhibit F: January 4, 1993 Resolution for a site plan.

Exhibit G: December 2, 1996 Resolution granting a variance for canopy, showers, and driver's room.

Exhibit H: December 1, 2010 Resolution allowing trucks parking for up to 10 hours based upon change in Federal regulations.

Exhibit I: July 23, 2021 letter from Beneficial Soil Solutions regarding removal of soil from the lot.

Exhibit J: September 7, 2021 settlement agreement with NJ DEP confirming removal of construction debris, soil waste and removal thereof.

A-1: Two (2) photos showing the east side of the building, the back of the building, storage shed and canopy as of 2019.

A-2: Photo after the building was resided in the freestanding sign.

A-3: 2020 photo of the canopy with the mobile diesel sign.

A-4: Photo 2020 building with the roof sign.

A-5: Photo 2020 photo of site.

A-6: Photo 2021 – Freestanding sign with mobile sign back lit.

A-7: Photo 2020 of restrooms.

A-8: Photo 2020 driver room not open.

A-9: Photo 2020 driver area.

A-10: Photo 2021 convenience store.

- A-11: Photo 2021 convenience store.
- A-12: Photo 2019 convenience store at that time.
- A-13: Photo Route 46 view of site.
- A-14: Photo 2021 letter from Betes Environmental, February 15, 2022.
- A-15: Response Action Outcome (RAO) regarding NJDEP evaluation of soil.
- A-16: Minor site plan revised to February 11, 2022.
- A-17: Site overlay exhibit (over 1997 approved plan) dated February 11, 2022/Landscape and Lighting Plan dated February 27, 2022 prepared by Bertin Engineering and consisting of one (1) sheet.
- A-18: 1997 approved plan.
- A-19: Overlay of 2005 survey with revised date of March 1, 2022.
- A-20: Minor site plan, five (5) sheets revised through May 18, 2022.
- A-21: Sign Plan/Reimagining Plan by Bertin Engineering, dated March 23, 2023.

In addition to the testimonial evidence submitted by the public, the public submitted the following documentary evidence:

- O-1: Photo from Clinton Street view dated August 30, 2022 of glare from the site.
- O-2: Photo August 30, 2022 view of the concrete wall with glare.
- O-3: View from Route 46, August 30, 2022, glare from lights on site.
- O-4: Photo 2021 view of lit band on canopy.
- O-5: Photo 2021 photo of blue band and glare from lights on site.
- O-6: Photo 2021 photo of glare and parked trucks idling.

- O-7: Photo 2021 alternate view of lit blue band and light glare from lights on site.
- O-8: Photo 2021 alternate view of lit blue band canopy and glare from lights.
- O-9: Photo April 4, 2021, view of the cut into the site.

WHEREAS, the Zoning Board, in reviewing the foregoing testimony and documentary evidence, makes the following findings of fact and conclusions:

The Applicant is seeking a preliminary and final major site plan and “d” and “c” variance and exceptions/design waivers with regard to its application. The variances and design waivers being sought by the Applicant are as follows:

1. “D(2)” expansion of nonconforming use variance relief from Section 11-309 of the Township Code; including ex post facto variance relief for the expansion of the convenience store floor area including the addition of exterior beverage coolers; existing trash enclosure within the landscape berm area; existing vacuum and air compressor facility, pole-mounted site lighting canopy lighting; canopy signage; proposed freestanding signs; and proposed wall-mounted signs.
2. “C” bulk variance relief from Section 11-314.E(5)[1] to permit two freestanding signs where only one freestanding sign advertising the business establishments and/or services located on the lot therein is permitted.
3. “C” bulk variance relief from Section 11-314.E(5)[1] to permit two proposed 25 foot tall freestanding signs, whereas the maximum allowable height for a freestanding sign in the C-1 District is 10 feet. The existing sign is 21 feet tall, which was approved by the 1985 Resolution to be replaced with a 24.7 foot tall

freestanding sign.

4. "C" bulk variance relief from Section 11-314.E(5)(c)(2) to permit two (2) proposed freestanding signs with 103.4 square feet of sign area, whereas the maximum allowable area for the freestanding sign in the C-1 District is 24 square feet. The existing freestanding sign is 37 feet, and the 1985 Resolution approved a freestanding sign with 63.15 square feet.
5. "C" bulk variance relief from Section 11-314.E(5)(c)(3) to permit the proposed freestanding sign to be setback five (5) feet from the southerly property, whereas 17.5 feet is required.
6. "C" bulk variance from 11-314.E(5)(c)(2) to permit two (2) new freestanding signs 17.5 feet from Route 46 right-of-way, whereas freestanding signs greater than 76 square feet shall not be closer than 30 feet to the street right-of-way.
7. "C" variance relief from Section 11-314.E(5)(a) to permit two wall signs with 26 square feet of sign area, whereas the maximum sign area for the sign permitted on the face of any wall shall not exceed 5% of the face of the wall area or 24 square feet, whichever is less.
8. "C" bulk variance relief from Section 11-314.E(5)(c)(2) to permit the now existing "Mobil Diesel" fuel canopy signs with 29 square feet of the sign area, whereas the maximum permitted is 17.1 square feet.
9. "C" bulk variance relief from Section 11-314.E(6) to permit existing and proposed internally illuminated signage, including Mobil Diesel canopy signs and the freestanding sign, whereas internally illuminated signs are not permitted.
10. Design waiver/exception from Section 11-181.D(2) to permit an average

maintained illumination of 4.26 footcandles across the paved areas, whereas 1.0 footcandles is required.

11. Design waiver/exception from Section 11-181.D(2) to permit a maximum illumination in the paved areas of 44.96 footcandles and a minimum illumination of zero footcandles, whereas an average level-to-minimum point ratio of 4:1 is required.

The Board reviewed the testimony of the Applicant, the concerns raised by the members of the public as well as comments made by Members of the Board. The Board finds that the testimony of the Applicant's planner with regard to the "d" variance and the waivers is credible in most aspects of the plan. The Board does find that some Purposes of Zoning are established in that there has been an aesthetic improvement to the site which is obvious from the photo evidence of the before and after of the building. However, it is noted that the improvements to the building façade were completed as a result of the 1992 approval and are not directly related to the variances requested with this application. The Board also finds that there is an improvement with regard to lighting as proposed since the current lighting is not adequate in terms of glare protection. The proposed lighting will mitigate the glare, thereby improving health safety and welfare to the surrounding properties thereby establishing Purpose (a) of the Municipal Land Use Law.

With regard to the lighting, the Board finds that while the lighting does require waiver the Board consultants believe that the modifications to the lighting in term of light intensity are such as to minimize the adverse impact to surrounding properties while still providing adequate lighting for the operation itself.

The Board also finds that the site plan does generally comply with the Ordinance.

However, the Board does find concerns with regard to certain elements of the plan and as a result incorporates conditions that have been proposed by Board Members as well as the Applicant and the Consultants for the Board which will mitigate any of the negative criteria with regard to this application.

NOW, THEREFORE, BE IT RESOLVED that the Zoning Board of Adjustment of the Township of Knowlton does hereby approve the Preliminary and Final Major Site Plan as more practically described in a map entitled, “Minor Site Plan Application, Truck Stop Re-imagining” prepared by Bertin Engineering of Glen Rock, New Jersey. Said maps consist of five (5) sheets and is dated May 18, 2022.

This approval is subject to the following terms and conditions:

Signage Conditions.

1. This approval incorporates the grant of the “d” variance as well as the “c” variances for the reasons hereinbefore. The “d” variance, as it relates to the freestanding sign, this approval is for one (1) freestanding sign to be 21 feet in height and is subject to the submission of A-21 entitled, “Sign Plan/Reimagining Plan” prepared by Bertin Engineering dated March 23, 2023. Specifically, the Applicant shall remove the “71” appendage above the sign as a condition of the grant of this portion of the approval and shall be required to remove the two (2) roof signs on the building prior to the issuance of a Building Permit for the new sign. The square footage of the freestanding sign shall be 85 square feet on each side. Finally, this approval is also subject to the Applicant locating the freestanding sign within the Ordinance setback. The Applicant shall also modify the plans to eliminate reference to a “mobile

sign” as shown on the plan and if said “mobile sign” exists on the site, it shall be removed. The Board also grants the waivers with regard to portions of the lighting as further modified in these conditions. This approval is specifically conditioned on that no portion of the sign, including any cantilevered portion, shall be in violation of the front yard setback for signs as required by the Township Ordinance.

2. The Applicant shall add “no idling” signs and “no parking” signs along the berm in locations to be approved by the Township Engineer.
3. The freestanding sign will be authorized to have LED lighting and adjustable as nighttime conditions and weather conditions warrant. The LED lighting shall contain dimming technology to control against excessive glare and glow that may impact the adjacent neighborhood. After installation, Board Professionals and/or Township staff, as appropriate, may conduct an inspection of the signage to determine whether the LED illumination is set appropriately.
4. The signs on the restaurant shall be red, white and blue and 26 square feet. No internal illumination or additional lighting fixtures shall be approved for the building signs. The building signs shall be illuminated by soffit lighting only. The Township Engineer shall review the soffit lighting to ensure it meets the Township’s standards and is not excessive.
5. Any existing “open” signs that are listed either on the convenience store building, restaurant building or the kiosk shall be eliminated.
6. All conditions of this approval shall be completed and inspected by the

Township Professionals prior to the Building Department giving authorization for the installation of the freestanding sign for fuel purposes.

7. Caution signs for trucks coming around the building where customer parking is located shall be installed.

Lighting Conditions.

1. Lighting poles shall be cut to a height as to allow the lights to be installed at a maximum height of 16 feet. Lighting poles shall be cut to a height to accommodate lights at a height not higher than 16 feet.
2. The blue band on the canopies will not be authorized to be illuminated.
3. All lights shall be focused downward with cutoff shields as necessary to assure that there is no adverse glow or glare affiliate from light sources.
4. All lighting fixtures shall be a single head light fixture and the existing dual head fixture shall be removed. Failure to provide and maintain electric hookups shall result in enforcement action by the Township.
5. All light fixtures shall be concealed source with appropriate cutoff shields.
6. Two (2) wall pack lights will be authorized with appropriate screening including concealed source bulbs and shielding as necessary.
7. The lighting intensity regarding the lights under the canopy will be reduced in accordance with the representations made by the Applicant and the recommendations made by the Board Planner and Engineer. After installation, the Board Engineer shall conduct an inspection to determine that the lighting does not adversely affect any residential properties with excessive glare or glow.

Landscaping Conditions.

1. The Applicant shall eliminate the gap in the berm that is currently between the property in question and Lot 14 and fill in the gap in like kind and height. The Applicant shall also be required to plant trees and shrubs in the area in accordance with the landscaping plan. This approval shall be conditioned upon the completion of this condition prior to authorization for permit to install the freestanding sign permitted hereinbefore.
2. The landscaping plan outlined in A-17, specifically that portion dealing with the landscape and lighting plan prepared by Bertin Engineering and revised to February 11, 2022, shall incorporate planting heights of evergreen trees to be a minimum of 10-12 feet and shrubs to be a minimum of 3-4 feet. The Applicant will work with the Boards professionals to select substitute plantings with a variety of plants to better protect the buffer.
3. The berm shall be extended to the existing trees on the curb section of Clinton Street and the plantings shall be added. The contours of the berm extension shall be reviewed by the Township Engineer.

Site Work Conditions.

1. The Applicant shall eliminate the propane tank on site and not otherwise disturb berm where the propane tank had been proposed.
2. The air facilities for tires and vacuum facilities shall be located at the westerly side of the site, as depicted on the site plan.
3. A striped walkway shall be created from vehicle parking spaces to the

concrete walkway into the restaurant/convenience store reviewed and approved by the Township Engineer.

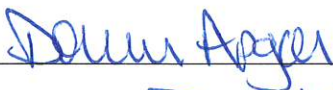
4. The expansion of the building is authorized from 2,358 square feet to 2,631 square feet, to be consistent with the existing conditions. No other expansion is authorized.

Other Conditions.

1. The Applicant shall be required to reestablish the hotline as required by Condition #12 of the 1992 Resolution and provide appropriate signage for said hotline so as to assure members of the surrounding public will have adequate redress for any violations of the terms and conditions of this site plan. A mechanism for the operation of this hotline shall be reviewed by the Board Consultants for adequacy.
2. Parking of trucks by the berm is strictly prohibited. Trucks are only permitted to park within designated spaces at the easterly end of site.
3. Overnight parking shall not be authorized except for 10 hour rest periods required for truckers. Idling shall be limited in accordance with the State Statutory standards (five (5) minutes of idling except when the temperature is below 25 degrees Fahrenheit, than 15 minutes shall be authorized). No storage of trucks or trailers shall be authorized on site. No unhitched trailers shall be allowed on the site. The Applicant shall install electrical hookups for each of the truck parking stalls to eliminate the need for idling. No double stacking of trucks in the designated truck parking areas. The Applicant shall remove a sign on the convenience store that reads, "We Have Overnight Parking".

4. This approval specifically prohibits overnight parking except as otherwise noted. No truck idling except as in accordance with State Statute, and no storage of trucks or any vehicles, and no offsite parking for trucks in relation to this site operation. No double-stacking of trucks shall be authorized in the designated parking area for trucks.
5. The striping along the berm shall be a fire lane yellow striping and maintained by the Applicant.
6. All walkways shall be ADA compliant. ADA parking signs shall be installed at ADA parking spaces.
7. The Applicant shall submit to the Township Engineer and Planner a revised set of plans to reflect all of the conditions contained in this Resolution to be reviewed by the Professionals for accuracy.
8. This approval is subject to the requirement that all conditions of this Resolution shall be fulfilled prior to the issuance of a Building Permit for the freestanding sign.
9. This approval is subject to the payment of all appropriate fees and taxes.

The undersigned does hereby certify that the foregoing is a true copy of the action taken by the Zoning Board of Adjustment of the Township of Knowlton at its regular meeting of May 2, 2023.



Board Secretary

**KNOWLTON TOWNSHIP ZONING BOARD OF ADJUSTMENT
RESOLUTION OF MEMORIALIZATION**

**Denied: April 4, 2023
Memorialized: June 27, 2023**

**IN THE MATTER OF
HAYDEN'S HOUSE OF HEALING
BLOCK 8, LOT 60
USE VARIANCE APPLICATION
APPLICATION NO. ZB22-002**

WHEREAS, Hayden's House of Healing (hereinafter known as the "Applicant") filed an application for variance approval with the Township of Knowlton Zoning Board of Adjustment (hereinafter known as the "Zoning Board") on November 3, 2022, and

WHEREAS, the application was deemed complete on January 31, 2023, and

WHEREAS, public hearings with notice were held on January 31, 2023, March 7, 2023 and April 4, 2023, at which time the Zoning Board rendered its decision on the application in accordance with the requirements of N.J.S.A. 40:55D-10(g), and

WHEREAS, it has been determined that the Applicant has complied with all of the rules, regulations and requirements of the Zoning Board for purposes of filing the application and that all of the required provisions of said compliance have been filed with the Zoning Board, and

WHEREAS, the Zoning Board has received as part of the hearing process the following testimony and documentary evidence submitted by the Applicant and its Consultants, the Zoning

Board Staff, and members of the public:

The Applicant is the owner of property known as Block 8, Lot 60 on the Tax Map of the Township of Knowlton. It is otherwise designated as 20 Ivan Road, Columbia, New Jersey, 07832. The property is located in the Farmland Preservation District (FPD) zone where single-family residential uses are permitted. The Applicants indicated that they were utilizing the property as a nonprofit use for bereavement and as a healing center for families of deceased children. The Applicants themselves did not live on site. This use is not permitted in the zone. The Applicant is seeking a “d(1)” variance pursuant to the Municipal Land Use Law. No improvements are being proposed to the site or off-tract.

Rob and Ady Dorsett testified on behalf of the Applicant. Ady is the CEO of Hayden’s House of Healing and Rob is the CFO. They are cofounders of this organization. They themselves lost a child and established this nonprofit in 2017 and took ownership of the property in 2019. The nonprofit was engaged in providing retreats for other couples who had lost children. These retreats occurred from Thursday to Sunday. The retreats were not conducted by the Dorsetts but by individuals who had lost their children, not licensed counselors. They testified that the retreats usually included 12 people and four (4) hosts for a total of 16 people. They conducted 18 retreats during the spring through the fall. Parking for the retreat attendees and hosts were either on the property or on the street. Food preparation was generally done

through catering. Sleeping accommodations occurred within the house. They testified further that some of the event activities occurred outside.

With regard to complaints that they had received regarding noise, they had instituted “quiet hours”. The Dorsetts indicate the costs of the retreats were usually covered by sponsors and fundraisers. The Dorsetts did not live in the house. Their primary residence was in Bergen County.

Based upon questions by members of the Board, it was noted that there had been an incident where a whole house generator fire had occurred which required Fire Department intervention. As a result, the fire officials noted the number of people that were at the home who in turn alerted the Zoning Officer. As a result of that inspection, a summons was issued indicating that this was a commercial activity in a residential zone.

It was noted by the Dorsetts that the property was 1.36 acres. Questions were raised as to the adequacy of the septic system.

As a result of the testimony at the first meeting, members of the public raised concerns with regard to the number of people that were attending the retreats on site. The president of the Lake Owner’s Association, Mr. Michael Tironi, raised concerns with regard to outside events, alcohol usage and lake usage by the number of people that were attending these retreats. Other members of the public raised concerns with regard to the outside events involving bereavement

and the impact on neighborhood children. There were also questions about the whether the donors were able to use the property as a personal vacation home when events were not taking place.

Mr. Eric Snyder, the Zoning Officer for Knowlton Township, testified that he had issued a violation. He believed that the activities engaged in by the owners were in the nature of commercial activities rather than residential and therefore beyond the permitted uses within the residential zone. He was also asked with regard to whether the Warren County Health Department had checked peak usage of the septic system. He did not have information in that regard. Members of the Board also asked the Dorsetts as to whether or not they had insurance to cover these activities in the event of accidents, and other liability questions.

As a result of the questions and comments that were raised at the first meeting, the Applicant submitted, through their attorney, stipulations that were made a part of the record by way of a letter dated March 3, 2023 from Mr. Selvaggi of Lavery of Selvaggi, Abromitis and Cohen. They also submitted an aerial photo designating where cars would likely be parked under the new proposal, which would be a total of 13 cars on site. The Applicant, through their attorney, indicated that the stipulations submitted would negate the negative impact that may occur as a result of the retreats that are being proposed. The Applicants then requested that the meeting be opened to the public.

The public raised concerns with regard to the number of retreats that are being proposed. It was suggested that the retreats from March to November would equal as many as 31 functions. Other members of the public raised concerns that with the 13 cars on site, this would have an adverse impact with regard to any fires that may occur and the ability of the Fire Department to access the site. Mr. Tironi, the Lake Association president, indicated that the Lake Association is made up of community members who are residents of the lake. He pointed out that the Dorsetts do not live there and that they are bringing in attendees on a regular basis that are not associated with the lake and may not have the same respect for the lake and its residents. He believes that this adds a burden to the lake and the lake members that was never contemplated in a single-family residence.

There were other concerns raised by members of the public and they included the fact that the Applicant has a website that included photos of other homes in the lake without authorization from those homeowners. They believe that was an intrusion of their privacy and an invitation to outsiders who viewed the website who may have nefarious intentions by giving them information that is not otherwise available.

It was also argued that this was not a home occupation since the Dorsetts do not live there and therefore does not meet the standards of a home occupation. Other members of the public raised concerns with regard to the adequacy of the septic system and made reference to the New

Jersey Administrative Code sections and suggested that the residential septic was not big enough for the use that was being proposed.

Other members raised questions as to whether or not this site is particularly well-suited for its intended purpose. It is noted that this house is located in a private lake community designed for residential uses. It does not permit the kind of activities that are engaged in by the Applicant. In fact, it is suggested by the public that this is out of character in regard to the neighborhood.

Other members of the public raised questions as to how this activity has adversely affected their quality of life. These retreats are not only indoors but also outdoors and create disturbance within the neighborhood.

One member of the public raised concerns that the outdoor activities involving bereavement has had an adverse impact on her young children. She testified that the outdoor bereavement activities upset her children and they were reluctant to go outside.

Other members of the public had indicated that they support the activity. They indicate that there are multi-levels of security in the house, that it has brought peace to their lives being an attendee. It was also pointed out that it is not a burden to the community, that the events are catered and that over the course of a year they have spent almost \$30,000 to purchase food and other supplies for these events, which is benefiting local business. Other members of the public

have indicated that by being an attendee, it has saved their lives and has allowed them to get back to normal. It has not only helped couples but also their families in terms of relieving the grief that was felt by the surviving children.

The Applicant presented Mr. John Hansen, a professional engineer and professional planner in the State of New Jersey. He opined that this is an inherently beneficial use. He noted that this is not a medical facility, but a retreat facility and that it is beneficial to the individuals, when they go to these retreats, to help them heal from the unimaginable grief of the loss of a child. He noted that there are no licensed therapists. The Dorsetts are not proposing that this is medical treatment per se, but rather a service that assists people in overcoming their grief.

He also testified that the house is serviced by a well and septic. The house contains several bedrooms. He pointed out that the Applicants have agreed to limit the number of retreats to a maximum of 26 per year with a maximum of 16 participants. Retreats will run from Thursday afternoon to Sunday afternoon. There will also be no more than five (5) one-day workshops where there will be no more than 18 participants and will occur on either a Saturday or a Sunday. He also noted that the Applicant have now stipulated that donors will not be allowed to utilize the property for their personal use. The only personal use will be that of the Dorsetts. They also agreed that to alleviate concerns as to who are attending these retreats, the Applicants will agree to subject all volunteers, hosts and attendees to criminal background

checks. They also agreed to consult with the Warren County Health Department to confirm that the septic system is adequate for its intended purpose. They also agreed to plant trees and shrubs to delineate the property lines between their property and their neighbor's property, designated as 18 Ivan Road. The Applicant also agreed to prohibit outdoor music between the hours of 10:00 P.M. and 7:00 A.M. The Applicant also agreed to provide the Association with the names and contact information for each weekend retreat in the event of an emergency or any other situation that may arise. Further, the Dorsetts have indicated that they will prohibit parking along the curb of the road in front of 20 Ivan Road. All cars will be parked either on the property or on offsite locations. They agreed that no attendees will have access to the lake after sunset and that the participants will not be permitted to use the lake's walking path.

He noted that the house has four (4) bedrooms. The septic requirement for a four (4) bedroom house is 650 gallons per day. The County suggests this a group home which requires 50 gallons per overnight guest. He opined that based upon those calculations, the septic that has been installed is adequate for the intended purpose.

He suggested that the Applicant has two (2) options to "d" variance approval. One is an inherently beneficial use. The other is through a standard "d" variance through the Medici standard. With regard to the inherently beneficial use, he noted that the Municipal Land Use Law defines an inherently beneficial use as a use that is universally considered of value to the

community because it fundamentally serves the public good and promotes the general welfare. His opinion is that this use meets that definition and therefore goes through the Sica standard of the four (4) step process. He indicates that the benefit is the healing process for couples who have lost children. The detriment is the impact of the 26 retreats that may occur on site and how they may affect surrounding properties. He believes that the conditions that are proposed by the Applicant through the letter of their attorney dated March 3, 2023 adequately addressed those concerns. Therefore, he believes that the benefits provided by this use outweigh the detriment. Public interest, he again reiterates, is the support of survivors and couples who have lost children. While this is not a mental health facility, it does provide, based upon testimony, a grief/bereavement retreat that helps couples heal. He believes that the benefits that are envisioned by the Municipal Land Use Law do not necessarily relate simply to the Township, but also to surrounding areas. He believes the detriments are the impact of the retreats, which include noise, parking, utilities and trespass and believes that the conditions are sufficient to mitigate those concerns. He believes that there is no substantial detriment and that the benefits outweigh the detriment.

With regard to the Medici standard, he believes that the Municipal Land Use Law allows for group homes and homes for domestic violence in all residential zones. He analogizes this activity to those types of uses and finds that they help individuals in times of need. He believes

that it advances Purpose of Zoning (a) by promoting general welfare. He does not believe that there is any substantial impact to the public good since the conditions that are being proposed will lessen any substantial adverse impact to surrounding properties. He believes on balance that the benefits of the application outweigh any detriment and there is no substantial detriment to in this project. Mr. Hansen acknowledged that this use is not one of those that is listed in the definition of “inherently beneficial uses”.

In addition to the testimonial evidence, the Applicant submitted the following documentary evidence:

A-1: Google Map of the property.

The Board also accepted as part of the evidence the letter of Michael Selvaggi, Esq. dated March 3, 2023 outlining conditions proposed in the event of an approval.

In addition to the members of the public raising concerns, the public provided the following documentary evidence:

O-1: Mortgage of the Applicant dated 8-15-2019.

The Board also incorporated the reports of its Consultants dated February 6, 2023 from its Planner, Mr. Bloch, and from its Engineer, Mr. Keenan, dated December 5, 2023.

WHEREAS, the Zoning Board, in reviewing the foregoing testimony and documentary evidence, makes the following findings of fact and conclusions:

The Applicant is seeking approval for a “d” variance either as an inherently beneficial use or as a variance pursuant to the standards contained in the Medici case. The Board has reviewed the testimony of the Applicant together with the testimony their consultant, Mr. Hansen, as a professional engineer and as a planner. The Board also took into account the testimony of the public both for and against this project as well as the comments made in the reports of its Consultants.

The Board reviewed the issue of inherently beneficial use. It took into account not only the testimony on behalf of attendees of the retreats as well as the testimony of the Applicant, as well as their consultant, Mr. Hansen. The Board acknowledges that the benefits can stretch beyond the benefit just to Township residents, but also to residents of the Region and the State. However, the Board does note that there is an unreported case by the name of Chai Lifeline, Inc. v. Township of Mahwah. This case dealt with a similar situation in that the Plaintiff in the case, Chai Lifeline, Inc., owned a single-family residence in a residential zone in Mahwah Township and the Plaintiff used the property as a retreat for clients whose lives had been affected by life-threatening illnesses and more recent loses, and for counseling of recently widowed women. Clients were permitted to stay at the retreat for a couple of days. One of the issues involved in the case was whether or not this activity was deemed to be an inherently beneficial use. The Appellate Division found that the inherently beneficial use standards were not met in these

circumstances. The Board finds that this case is substantially similar to the one before it and finds it compelling in determining whether or not this is an inherently beneficial use. The Court reviewed the decision of the Board and it found that it was acting as a retreat house and that while it served some benefit, the Board found that it did not serve the public good. After reviewing the testimony, the Zoning Board finds that while the retreat activities do provide some good, this is not a benefit that is generally open to the public. It is rather unique to a specific group of people. The Board also took into account the definition of “inherently beneficial use” as contained in the Municipal Land Use Law. It finds that the examples such as hospitals, schools and daycare centers are activities that are open to the general public. The Zoning Board finds those examples to be compelling and that while this use is a benefit, it is not an inherently beneficial use when taken into account that it is of limited scope and not generally open to the public.

The Board also reviewed the issue of whether or not the Applicant has satisfied the Medici criteria. With regard to the positive criteria, the Applicant opines that it is meeting Purpose (a) which advances public health and general welfare. The Board accepts the testimony not only of the Applicant but the attendees that have testified that the retreat activities have assisted in alleviating the grief that they have experienced due to the loss of children and have saved their marriages and saved themselves through these group discussions.

However, the Board finds that the negative criteria has not been met. First, the Board does not find that this site is particularly well suited for its intended purpose. The house is approximately 1.5 acres of property in a small lake community. The Applicant candidly acknowledged that they have and intend to continue to have 26 retreats during any calendar year and that the retreats will be attended by not more than 16 people. Additionally, they acknowledged that they will have not more than five (5) one-day workshops throughout the year where not more than 18 people will attend. The retreats will occur from Thursday afternoon to Sunday afternoon. The workshops will occur on either Saturday or Sunday. That means that during the course of the year, 31 separate activities will occur on the weekends in this community which will include between 16 and 18 people on site. The Board finds that the single-family residential lake community is not designed to have these kinds of retreats on such a regular, recurring basis. The Board finds that this is disruptive of the neighborhood withstanding the attempt by the Applicant to minimize the impact through the conditions they proposed in the March 3, 2023 letter. Further, the Board also finds that the Applicant has not satisfied the negative criteria in that there is no substantial detriment to the public good. It is clear from neighborhood reaction that there has been a substantial intrusion into the quiet enjoyment of this lake community. The Board acknowledges that there were many people from the lake community that spoke with regard to the adverse impact that they have experienced or were

concerned about. While the Board is not bound by testimony by the public, the Board nonetheless cannot ignore the outpouring of concern with regard to this activity.

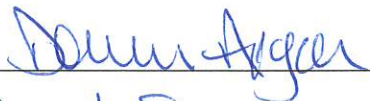
The Board also finds that the Applicant has not satisfied the criteria that there is no substantial detriment to the intent and purpose of the Zone Plan or the Zoning Ordinance. The Board does not believe that there is anything in the Master Plan of the Township of Knowlton that would sanction a retreat facility in the middle of a small residential lake community as is being proposed by the Applicant. The Master Plan generally, and the Ordinance specifically, is designed to maintain the character of single-family residential communities to protect the quiet enjoyment of their properties. The Board finds that the number and intensity of these retreats and/or workshops will have an adverse effect that is significant and substantial. Regarding that the activities will include upwards of 31 individual activities throughout the course of the year on weekends, the Board finds clearly that more than half of the weekends in any given year will be impacted by these activities. Further, the Board finds that having between 16 and 18 attendees during these retreats of necessity result in more activity than is generally deemed acceptable in a small residential community.

It is for all of these reasons that the Board finds that the Applicant has failed to establish and meet its burden with regard to the “d” variance it is requesting either under the inherently beneficial use standard or the Medici standard.

NOW, THEREFORE, BE IT RESOLVED that the Zoning Board of Adjustment of the Township of Knowlton does hereby deny the request for variance for the reasons expressed hereinbefore.

This approval is subject to the payment of all appropriate fees and taxes.

The undersigned does hereby certify that the foregoing is a true copy of the action taken by the Zoning Board of Adjustment of the Township of Knowlton at its regular meeting of April 4, 2023.



Board Secretary

RWT 5-28-23, 6-15-23, 6-19-23

KNOWLTON PLANNING BOARD
RESOLUTION OF MEMORIALIZATION

Decided: 2/28/23
Memorialized: 6/27/23

IN THE MATTER OF THUNDERSTONE, INC.
MINOR SITE PLAN APPLICATION
BLOCK 48, LOT 1
APPLICATION NO. 22-005

WHEREAS, an application has been made to this Board by Thunderstone Inc. with the permission of the property owner 27 Rt 46, LLC through legal counsel Richard Wenner, Esq. This application requests a Minor Site Plan at the property known as Block 48, Lot 1, as depicted on the Tax Maps of Knowlton Township, and

WHEREAS, the Applicant, who appeared with legal counsel, and

WHEREAS, the Board deemed the application complete, and

NOW, THEREFORE, BE IT RESOLVED by the Planning Board as follows:

ACCEPTED FACTS

1. Testimony was continued from previous hearings by Jack Gabay, a principal with an applicant, and Mike Finelli, PE; both were sworn in, and Mr. Finelli qualified as PE.
2. The applicant is seeking a minor site plan for land located at 27 Route 46.

3. Mr. Gabay testified as to the business operation of the applicant. Since 2005 the applicant has sold tile and bath fixtures at this retail store. The tile store will not have walk-in traffic; it will be by appointment only.
4. There is a two-story building on site; the first floor will be a showroom and office space. The second story will be unoccupied and unused for any purpose.
5. The applicant plans to store products on-site, the 1800 sf building referred to as the "Bunker" will be used for product storage.
6. The trailers will not be used for storage of any type.
7. The trailers on site are to move merchandise from one store to another.
8. There would be at most two trailers on site with a tractor and a straight truck.
9. There will be seven parking spaces.
10. Board Professionals asked about the original plans, including the second story used as an office. The applicants stated they intend to utilize something other than the upstairs right now as there is no need; they may come back at some point with another application.
11. Mr. Finelli was the next witness. He reviewed revised designs, including additional landscaping as

buffers for the truck parking and storage shed. Parking lot repairs which included closing off the eastern and western entrance points. There will be just one ingress and egress location.

12. Mr. Wenner then reviewed a comment from the board's planner regarding the septic. He stated it would remain in as-is condition, there are no plans to change it, but as a condition of approval, they will reach out to Warren County Health Department to provide information. Hence, the board is confident the system can handle the proposed use.

13. Mr. Finelli then reviewed the existing lighting saying it was very dim, and Mr. Gabay was okay with it. There are no proposed changes to the existing lighting.

14. The engineer stated it would be gravel pavement, not blacktop pavement.

15. The Board also asked about the fenced-in areas' surface. Mr. Gabay stated that it is grass and will be used as a garden and will not be used for storage.

16. The applicant's planner, James Kyle, was sworn in and gave his qualifications. He reviewed the planning issues.

17. It was explained that the C1 zone permitted uses include the applicant's use.
18. Testimony was provided regarding the existing non-conforming condition (setback to Walnut Rd).
19. Testimony to support the seven parking spaces were provided.
20. Large evergreens will be buffering on the sides and front.
21. Mr. Sadalm from Thunderstone was sworn in and confirmed that the number of trucks and trailers on site were as depicted in the drawing, and Mr. Wenner stated that would be enforceable by the zoning officer. Trailers are to be offloaded using a forklift.
22. Existing lighting is soffit type and shines downward towards the sidewalk. Business hours are 10:00 AM to 4:00 PM.
23. The Board noted that seven parking spaces are planned since only the downstairs portion is being used.

The hearing was opened to the public without comment.

CONCLUSIONS

- A. The Board, having reviewed the application and hearing the testimony as to what is proposed at the property in question and the proposed owner's intended use, finds it appropriate for the zoning

district.

- B. The Board finds the testimony of the applicant's witnesses to be credible and agrees that the applicant has met the required burden of proof for the relief requested.
- C. The Board concludes that the proposed plan is consistent with the zone in question, as depicted in the materials presented.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of Knowlton that the grant of a Minor Site Plan is appropriate and **therefore is GRANTED.**

This approval is subject to the following terms and conditions:

1. This approval is subject to the approval of the Warren County Planning Board and any other governmental agency properly exercising jurisdiction and powers with respect to it, together with the performance of any terms and conditions of such approval if such approvals are necessary.

2. The Applicant is required to reimburse the municipality for all costs and fees incurred by it in the disposition of this application, including, but not limited to, the expenses attributable to the review of this application by the Board's professional consultants, as well as the preparation of this Resolution.

3. All taxes and fees shall be paid on the property in question as a condition of this application, and no permit shall be issued before such fees and taxes are paid in full.

4. The applicants provide a current certification of taxes paid.

5. DOT approval for closing entrance points will be provided.

6. Trees will be planted as screens as required on the record and approved in the field by the Board professionals.

7. The depicted floodplain line will be corrected on the revised plans.

8. Details for the gravel-paved area will be depicted on

the plans.

9. There will be no usage of the second floor for any purpose, including storage of anything.

10. All storage will be in the shed, referred to as the bunker.

11. There will be at most two trailers, one cab, and one straight truck stored overnight on the property.

12. Applicant will supply proof of taxes paid.

13. check with the Warren County Health Department on the septic and provide proof to the town.

14. Plans to be revised to be consistent with the testimony and approval.

Adopted on this 27th day of June 2023 by a majority of the members of the Board present at such meeting who voted for the action taken on February 28, 2023.

Knowlton Planning Board

By:



Doreen Apgar, Secretary

MEMBERS VOTING IN FAVOR OF THE ACTION TAKEN: Four

OPPOSED: None

ABSTAIN: Two

MEMBERS RECUSING THEMSELVES: None