

Amended Final Site Plan Approval
JSM at Martin Blvd., LLC
1916 NJ State Highway Route 88
Block 868.01, Lots 15, 16.02 and 16.03
Zone: B-3 and Mobile Home Park Overlay Zone
Application No. BA-3189-A-FSP-3/20,
BA-3091-PSP-FSP-C-D-3/18 and
BA-3092-MS-3/18
(Consolidated)

**RESOLUTION OF APPROVAL
BRICK TOWNSHIP ZONING BOARD OF ADJUSTMENT
APPLICATION NO. BA-3189-A-FSP-3/20
JULY 8, 2020**

WHEREAS, JSM at Martin Blvd., LLC (the “Applicant”) has applied to the Brick Township Zoning Board of Adjustment (the “Board”) for amended final site plan approval pursuant to N.J.S.A. 40:55D-50 for lands known and designated as Block 868.01, Lots 15, 16.02 and 16.03 on the official Tax Map of the Township of Brick and more specifically known as 1906 NJ State Highway Route 88, Brick, NJ; and

WHEREAS, a complete application has been filed, the fees as required by Township Ordinance have been paid, proof of service and publication of notice as required by law has been furnished and determined to be in proper order, and it otherwise appears that the jurisdiction and powers of the Board have been properly invoked and exercised; and

WHEREAS, a public hearing was held on June 17, 2020 via the virtual Zoom platform at which time testimony and exhibits were presented on behalf of the Applicant and all interested parties having been heard;

NOW, THEREFORE, the Board makes the following findings of fact based on evidence presented at its public hearing at which a record was made:

1. The Applicant is seeking amended final site plan approval to be relieved of conditions of the previously approval it received granting use variance relief, minor subdivision approval and preliminary and final site plan approval which was memorialized in a Resolution dated November 7, 2018 (Consolidated Application Nos. BA-3091-PSP-FSP-C-D-3/18 and BA-3092-MS-3/18) (the “2018 Approval”). The Applicant is specifically requesting that Condition #10 of the 2018 Approval which provides: “A ‘No Left Turn’ sign shall erected at the eastern most driveway on Rt. 88 consistent with the recommendation of the Township Police Department. The plans shall be revised to depict this signage,” be excised and that Condition #18 of the 2018 Approval which provides: “The Applicant shall comply with all recommendations contained in the reports of the Township Police and Fire Departments” be amended to eliminate the requirement restricting left turns onto Rt. 88 from the eastern most driveway. The Applicant is further seeking to amend the previously approved stormwater management plan.

2. The 2018 Approval granted the Applicant use variance relief, minor subdivision approval, preliminary and final site plan approval, to develop a portion of an existing mobile home park on the subject Property to include a 5,051 square foot “Wawa” convenience store/gasoline station with sixteen (16) fuel pumps and an overhead canopy; a 4,535 square foot bank with drive through lanes; and a 7,182 square foot multi-use commercial building including retail and restaurant uses. All of these proposed uses were approved to share a common 110-space parking area, which included three (3) oversized spaces in the rear of the proposed Wawa.

3. The 2018 Approval also approved access to the subject Property via three (3) separate driveways including: one (1) divided driveway extending to/from Jack Martin

Boulevard approximately 450 feet north of Route 88, one (1) driveway extending from Route 88 approximately 250 feet east of Jack Martin Boulevard, and a third driveway extending from Route 88 approximately 750 feet east of Jack Martin Boulevard and immediately west of Askin Road. The Jack Martin Boulevard access drive was approved to extend through proposed new lot 16.02, and adjacent lot 15, which is a separate +/-5,300 S.F. triangular parcel. Sidewalk improvements were also approved within the interior of the proposed commercial development as well as along the Route 88 and Jack Martin Road frontages. Landscaping, new site lighting and site identification and wall signage are also proposed.

4. The 2018 Approval created the following three (3) lots:

- One (1) +/-4.631-acre parcel proposed to contain the modified mobile home park (Lot 16.02);
- One (1) +/-4.652-acre parcel proposed to contain the convenience store, gas station, bank and commercial building (Lot 16.03).
- Existing Lot 15 is not part of the minor subdivision and is a triangular parcel to remain at 5,300 s.f.

5. The 2018 Approval also approved the location of several of the existing mobile homes while completely eliminating several others in order to accommodate the creation of the two (2) commercial lots. This resulted in the reduction of the total number of mobile homes on site from thirty-eight (38) units (as indicated on the Existing Site & Geometry Plan, revised through February 3, 2017) to thirty-six (36) units (as indicated on the Proposed Site & Geometry Plan, revised through February 3, 2017). Improvements were approved within the mobile home park including the improvement/replacement of the existing gravel roads circulating the park, drainage improvements in the northerly portion of the park, and relocated lighting. A divided driveway extending from Jack Martin Boulevard was also approved to provide access to both the

commercial development as well as the modified mobile home development. The existing access to/from Askin Road to the north was approved to be maintained.

6. The subject Property is irregularly shaped and contains +/-9.283 acres with frontage along Jack Martin Boulevard (approximately 661.4 feet) and NJ State Highway Route 88 (approximately 763.6 feet) and is located near the northeasterly corner of the intersection of the two (2) roadways. The subject Property is currently improved with a mobile home park, gravel parking areas and drive aisles, and open space areas. The subject Property also has frontage along the westerly side of Askin Road, a 33-foot wide public right-of-way improved only as a paved drive aisle having an average pavement width of approximately twelve (12) feet. The subject Property is located within the B-3 (Highway Development) Zone.

7. The northerly portion of the subject Property (Lot 16.02) currently contains a mobile home development, while the southerly portion of the site (Lot 16.03) is cleared and under construction. There are no wetlands, wetlands transition areas or open water features on or within close proximity to the subject Property based upon the NJDEP GeoWeb Program. The subject Property is also not located within a flood hazard area pursuant to the FEMA Flood Insurance Rate Map (FIRM), but it is located within the CAFRA Zone.

8. The lots located to the northwest of the subject Property contain a frame office building and parking area. The property across Askin Road to the north contains a Sovereign Bank. The properties across Jack Martin Boulevard to the west contain commercial and retail uses including a Walmart, a Walgreens Pharmacy and a Wendy's restaurant. The property to the northeast of the subject Property is currently vacant and wooded, while the property to the southeast contains the Laurel Square shopping center.

9. The Board received and reviewed separate reports from its Consulting Engineer, Brian Boccanfuso, P.E., CFM of CME Associates last dated May 29, 2020; (the “Board Engineer’s Report”); from the Township Planner, Tara B. Paxton, MPA, AICP/PP last dated June 8, 2020; from the Township Bureau of Fire Safety dated April 14, 2020 (the “Fire Safety Report”); and from the Township Police Department Traffic Safety Unit dated April 20, 2020 (the “Traffic Safety Report”). Except as may be modified herein, the comments and recommendations contained within each of the aforementioned reports are incorporated herein by reference and made a part hereof.

10. The Applicant was represented by Douglas K. Wolfson, Esq., who first provided a brief history of the subject Property. He explained that the Applicant had previously received use variance relief, minor subdivision approval, as well as preliminary and final site plan approval in November 2018. Mr. Wolfson stated that said approval included a condition to install a right-in/right-out eastern accessway to Route 88. He explained that jurisdiction to approve this restriction was vested with the New Jersey Department of Transportation (NJDOT). Mr. Wolfson further stated that the Applicant had filed an application with the NJDOT seeking approval for the restriction. The NJDOT, however, denied the request and required full access. Mr. Wolfson then explained that the Applicant was now also proposing changes to the previously approved stormwater management system.

11. Ronald Aulenbach identified himself as Director of Real Estate Development for Edgewood Properties (affiliated with the Applicant), and provided testimony regarding the amended plans dated February 21, 2020. He stated that the Applicant was seeking rescission of the condition of the 2018 Approval regarding the right-in/right-out eastern accessway. Mr.

Aulenbach explained that the NJDOT had denied the application seeking this restriction. Mr. Aulenbach explained that NJDOT expressed concern that the right-in/right-out eastern accessway would place too much pressure on the other accessways to the subject Property. It, therefore, determined that a full movement accessway for that eastern driveway was appropriate. Mr. Aulenbach then testified that the Applicant was not seeking any additional variance relief.

12. Mr. Aulenbach further testified that the Applicant was also seeking amended final site plan approval to permit a redesigned stormwater management plan. He stated that the 2018 Approval required the stormwater runoff from the area surrounding the proposed convenience store, gas station, bank and commercial building be collected by a series of inlet catch basins and directed to an infiltration basin in the northerly portion of the subject Property. The roof runoff from the proposed commercial buildings as well as a portion of the runoff from the Route 88 roadway surface and excess flows from the infiltration basin described above would then be directed to several on-site underground stormwater management basins. Mr. Aulenbach explained that the discharge from these underground basins would be diverted to the existing inlet catch basin within the Route 88 right-of-way approximately 950 feet east of the subject Property via new subsurface drainage pipes, and ultimately downstream towards the Beaver Dam Creek. He then stated that a manufactured water quality treatment device was approved to remove sediment and pollutants from the runoff from Route 88 and a portion of the on-site parking area.

13. Mr. Aulenbach then testified that the Applicant was seeking amended final site plan approval to eliminate the underground basin to the east of the proposed Wawa convenience store and two (2) of the three (3) underground basins to be located in the parking area that would

front State Highway Route 88. He further stated that the proposed infiltration basin to be located along the common lot line of proposed Lot 16.02 and proposed Lot 16.03 would be enlarged to provide additional storage volume to offset the proposed elimination of the underground basins. Mr. Aulenbach opined that this proposal was minor in nature. He explained that the modified stormwater management system would comply with all State and Township requirements. He further testified that the Brick Township Municipal Utilities Authority had already approved the proposed new stormwater management system. Mr. Aulenbach also stated that the stormwater management modifications would not conflict with any utilities on the subject Property.

14. The Board's Engineer, Brian Boccanfuso, P.E., testified that the Applicant's proposed modifications to the stormwater management system would satisfy comments 9A and 9B in his Application Review Report dated May 29, 2020. Mr. Aulenbach then stated that the Applicant would comply with the landscaping and lighting comments set forth in paragraph 10 of Mr. Boccanfuso's report.

15. The Applicant's Traffic Engineer, Gary Dean, P.E., P.P., testified that he would address the comments set forth in paragraph 8C of Mr. Boccanfuso's report. He stated that the proposed full movement driveway would eliminate congestion at both the eastern and western driveways proposed by the Applicant. He specifically stated that the full movement eastern accessway would assist the redirection of traffic to the western driveway. Mr. Dean then also confirmed that the Applicant would still comply with the Title 39 condition in the 2018 Approval.

16. There were no members of the public expressing an interest in this application.

NOW, THEREFORE, the Board makes the following conclusions of law based upon the foregoing findings of fact:

1. The Applicant is seeking amended final site plan approval pursuant to N.J.S.A. 40:55D-50. The Board first addresses the Applicant's request for relief from Conditions 10 and 18 of the 2018 Approval. It is necessary to discuss the process by which these conditions were ultimately included in the 2018 Resolution. The Board received a Report from the Township Police Department which expressed safety concerns regarding the proposed full movement accessway onto Route 88 from the eastern most driveway. The Board recognized that Route 88 is a State Highway which is under the jurisdiction of the NJDOT. The Board also found the concerns of the Township Police Department to be compelling. The Board therefore required the Applicant to request the left turn restriction as part of its application to the NJDOT. The Applicant subsequently included the restriction as part of the application submitted to the NJDOT.

2. As detailed supra., the NJDOT reviewed and denied the request for the left turn restriction. Once again, the NJDOT has exclusive jurisdiction to approve access points on State Highways. This Board recognizes the exclusive jurisdiction of NJDOT in this particular matter and must defer to that Agency's decision that a full movement access is the safest plan. The decision of the NJDOT was further supported by the testimony of both the Applicant's and the Board's engineers. The Board therefore determines that Condition #10 is hereby excised. The Board further revises Condition #18 to exclude the recommendation of the Township Police Department to restrict left turns. Condition # 17 is also hereby revised to eliminate the reference to a right-in/right-out accessory.

3. The Board now addresses the request to modify the previously approved stormwater management plan. The Board finds that its own Engineer has concluded that the proposed new design will meet all State and Township requirements. The Applicant has further agreed to comply with all recommendations contained in the reports of the Board's professionals. The proposed amendment to the previously approved stormwater management plan is therefore approved.

4. The Municipal Land Use Law requires that site plan approvals granted subsequent to the granting of variance relief pursuant to N.J.S.A. 40:55D-70d are required to find that there is: "no substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and zoning ordinance." N.J.S.A. 40:55D-76b. This is essentially the negative criteria. The Board finds that the above described amended final site plan satisfies this criteria. The Board specifically finds that the NJDOT, the agency with exclusive jurisdiction over highway access, has determined that the proposed full movement access is safe. The Board further finds that the amended stormwater management plan will comply with all State and Township standards and requirements and will therefore operate in a safe manner.

5. Based upon the foregoing, the Board concludes that amended final site plan approval may be granted in this instance pursuant to N.J.S.A. 40:55D-50. The Board notes that all other conditions of the 2018 Approval remain in full force and effect.

NOW, THEREFORE, BE IT RESOLVED, by the Brick Township Zoning Board of Adjustment on this 8th day of July, 2020, that the action of the Board taken on June 17, 2020 granting Application No. BA-3189-A-FSP-3/20 of JSM at Martin Boulevard, LLC for amended final site plan approval, pursuant to N.J.S.A. 40:55D-50, as to the proposed eastern accessway

to/from State Highway 88 and the modified stormwater management system only, is hereby memorialized, subject to the following conditions:

1. The development of this site shall take place in strict conformance with the testimony, plans and drawings which have been submitted to the Board with this application, or as revised by the terms hereof.
2. Except where specifically modified by the terms of this Resolution, the Applicant shall comply with the recommendations contained in the reports of the Board's professionals.
3. Condition #10 of the 2018 Approval is hereby excised in its entirety.
4. Condition #18 of the 2018 Approval is hereby amended to exclude compliance with the portion of the Township Police Department Report recommending a restriction on left turns from the eastern most driveway onto Rt. 88.
5. Condition # 17 of the 2018 Approval is hereby amended to excise any reference to "right-in/right-out."
6. The revised stormwater management plan identified herein is approved.
7. All other conditions of the 2018 Approval not modified herein remain in full force and effect.