

**RESOLUTION OF MEMORIALIZATION OF THE LITTLE EGG HARBOR
TOWNSHIP BOARD OF ADJUSTMENT**

**RESOLUTION NO. 2023-21
VARIANCE APPLICATION NO. 2023-11**

RE: AVB REAL ESTATE, LLC
Block 78, Lot 3
1310 North Green Street
Use Variance and Preliminary &
Final Site Plan Approval

WHEREAS, AVB REAL ESTATE, LLC whose mailing address is 431 Princeton Avenue, Brick, New Jersey 08724, has applied for Preliminary and Final Site Plan Approval and Use Variance relief pursuant to N.J.S.A. 40:55D-70(d), affecting premises located at Block 78, Lots 3, on the Tax Map of the Township of Little Egg Harbor and otherwise known as 1310 North Green Street, Little Egg Harbor, New Jersey; and

WHEREAS, such proof of service as may be required by the New Jersey Statutory Law and Township Ordinance requirements upon appropriate property owners and governmental bodies has been duly furnished; and

WHEREAS, a public hearing was held on said application on November 8, 2023 in the Municipal Building of the Township of Little Egg Harbor and testimony and exhibits were presented on behalf of the applicant and all interested parties having been heard; and

WHEREAS, said Board having considered said application, testimony and exhibits submitted and inspection of the site, if any, makes the following findings:

1. The property in question (PIQ) is located on the west side of North Green Street (C.R. 539). The 4.88-acre site is presently developed with an existing 2-1.2 story commercial building

with water features, landscaping, stormwater management, a warehouse with a dirt floor and pave/environmental paver lots. The PIQ is split in the Scenic Gateway Overlay Zone Area of the General Business Zone and the R-5A Residential Zone. The existing building is located completely in the Scenic Gateway Overlay Zone Area of the General Business Zone.

2. Per Planning Board Resolution 2009-26, Pro Park by Hartley, LLC received Preliminary and Final Site Plan Approval for an 11,700 SF professional office with associated site improvements, including additional parking and stormwater management facilities.

a. The Applicant received a variance to allow 2 ground mounted signs, where 1 is allowed.

b. The Applicant received a waiver from providing a Traffic Impact Report.

c. The Applicant agreed to remove the existing environmental pavers and replace with asphalt parking in the front parking area. (These pavers remain per the recently submitted existing conditions plan as part of the current zoning board application 2021-16)

c. The Applicant agreed to abandon the residential use on the site and agreed that no residential uses were proposed nor will be permitted in the future.

3. Per Zoning Board Resolution 2018-13, Pro Park by Hartley, LLC appeared for a interpretation and the Board agreed to hear the Applicant's formal proposal for a Use Variance to allow professional live-work space, with each space being 800 – 1200 SF at a later date, with the following conditions:

a. No change in the current building footprint.

b. there will be 10 – 12 apartments.

- c. There shall be no retail conducted on the property.
- d. The pole barn can be used for storage only.
- e. Occupants must provide insurance documentation of professional business.

4. Pro Park by Hartley, LLC previously applied (Application No. 2021-16) for Use Variance to allow the proposed live-work space, which would allow residential, where residential is not a permitted use.

5. Currently, the Applicant, AVB Real Estate, LLC, who now owns the property in question, has applied for the Use Variance to allow the conversion of the property from commercial space to proposed residential, where residential is not a permitted use

6. Applicant requests variance relief under N.J.S.A. 40:55D-70(d)(2) (commonly referred to as a 'd-1' or "Use" Variance) in order to permit the proposed residential space, where it is not a permitted use.

7. The Applicant is also requesting a waiver from a formal site plan submission.

8. The Applicant provided testimony that there would be no detriment to the surrounding community by the granting of this variance relief which would, in applicant's opinion, constitute a benefit to the neighborhood without being inconsistent with the zone plan and zoning ordinances.

9. The Applicant was represented by Kevin Quinlan, Esquire.

10. The following members of the Public spoke with respect to the Application: Alex Mesguer spoke against the application. He requested a copy of the Architectural Plans first. Paul Deabyo questioned how the tax rates would change and was concerned about traffic congestion. Kathleen Smithfrisch stated that the Applicant was making a threat relative to motels allowed in

the area and that all motels in the area went out of business. Samuel Rennie asked if the use could ever change again.

11. Based upon the foregoing evidence, the Board make the following findings:

a. The applicant has demonstrated that the requested "D-1" use variance may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan or Zoning Ordinances of the Township of Little Egg Harbor.

NOW, THEREFORE, BE IT RESOLVED, by the said Board that on this 13th day of December, 2023, based upon the findings herein above stated, the application is hereby granted subject to the following conditions, together with all stipulations of the applicant:

1. The applicant shall strictly adhere to the representations, plans and exhibits submitted with regard to the proposed development of the subject property and should further comply in all respects with the technical review letters as prepared by the Little Egg Harbor Township Zoning Board of Adjustment Engineer dated June 27, 2023, July 24, 2023 and September 7, 2023, copies of which are annexed hereto and made a part hereof

2. Applicant is granted the following use variance:

a. The Applicant is granted a "D-1" use variance to allow the conversion of the property from commercial space to residential, where residential is not permitted. Specifically the Board has granted the use of 100% of the existing structure to a 55+ Community with a maximum of 18 units and minimum unit size to comply with Municipal, State and Federal Regulations.

3. The storm water basin will need to be cleaned and maintained. The Applicant shall be required to provide stormwater calculations to substantiate that the on site stormwater management system has been designed and built to accommodate the offsite drainage conditions impacting the subject property.

4. Applicant advised that the pole barn/warehouse is gone and will not be reconstructed.

5. The applicant shall further reimburse the Little Egg Harbor Township Zoning Board of Adjustment for all professional fees expended with regard to this application within thirty (30) days from the date of memorialization of this Resolution or any approvals granted herein shall automatically become null and void.

6. This variance is subject to §15-3.11 of the Little Egg Harbor Township Land Use Development Ordinance. Construction or alteration shall commence on each and every structure permitted by the variances within one (1) year from the date of entry of this Resolution.

7. The applicant shall apply for and obtain preliminary and final site plan approval within one (1) year. In the event the applicant fails to obtain said approval, the use variance shall be deemed void.

8. The applicant shall not occupy or lease any portions of the existing structure until such time as the property receives preliminary and final site plan approval and complies with all conditions of the prior resolutions, where applicable, and obtains all required local, county and state approvals and permits.

9. The applicant shall further secure any and all other necessary applications, permits or approvals and post any surety bonds that may be required by any other governmental agency.

10. The applicant shall resubmit this entire proposal should there be any substantial deviation from this Resolution or the submitted plans, documents, or oral representations made by this applicant.



EUGENE F. SULLIVAN, Chairman
Little Egg Harbor Zoning Board of Adjustment

CERTIFICATION

The foregoing is a true copy of a memorializing resolution by said Board at its meeting of November 8, 2023, as copied from the minutes of said meetings.



Robin Schilling, Board Secretary
Little Egg Harbor Zoning Board of Adjustment