

June 30, 2026

Ms. Robin Schilling, Secretary
Township of Little Egg Harbor Zoning Board
665 Radio Road
Little Egg Harbor, NJ 08087

Via Email: rschilling@leht.com

Re: Application #2026-04
Use Variance – Completeness & Technical Review #1
John LeVance
Block 160, Lot 7
Zone: GB – General Business Zone
625 NJSH Route 9 North
Our File: 1517-Z-487

Dear Ms. Schilling:

Our office has received and reviewed the referenced application and offers the following comments:

A. Background

The property in question (PIQ) is located on the northwesterly side of NJSH Route 9. The site consists of Block 160, Lot 7 containing 2.78 acres located in the GB – General Business Zone. The lot is developed with a split level dwelling, 3 greenhouses, a farm market, a freezer, and an area of pavement. A portion of the site is wooded. There are a parking lot easement and a septic field easement on the property.

As stated in the application, the Applicant proposes to place a 15 ft x 8 ft food truck at the southerly corner of the property. No permanent structures or improvements are proposed. The Applicant proposes to remove the food truck nightly. No changes to the existing improvements are proposed.

The application narrative indicates that Applicant proposes 3 picnic style tables for customer use, and 5 proposed angled parking spaces located in front of the food truck along Route 9.

The Applicant currently seeks use variance relief for the food truck and a waiver of site plan.

B. Items Submitted

1. Copy of a plan titled “Survey of the Premises, Township of Little Egg Harbor, Ocean County, New Jersey,” prepared by Michael D. Fasy, P.L.S., P.P. of Michael D. Fasy & Associates, consisting of 1 sheet, dated March 9, 2026.
2. Copy of a Portion of the Survey marked up.
3. Copy of the Township of Little Egg Harbor Zoning Board of Adjustment Application and Appeal dated May 12, 2026.
4. Copy of Check No. 399 in the amount of \$100.00 for Application Fees.
5. Copy of Check No. 398 in the amount of \$150.00 for Resolution Fees.
6. Copy of Check No. 400 in the amount of \$500.00 for Escrow Fees.

7. Copy of an Application Narrative.
8. Copy of the Affidavit of Non-Collusion dated May 12, 2026.
9. Copy of the Site Inspection Consent dated May 12, 2026.
10. Copy of 2 Site Photographs and an Aerial View.

C. Completeness

The following is a list of items required to be submitted by checklist which our office finds relevant for this application. The Board and our office reserve the right to request additional item(s) be submitted, should the testimony provided require such documentation.

1. Item #11 – Names of all property owners within 200 Feet of subject property.
2. Item #16 – Provide at least 4 photographs of the site for an accurate description on site. **(2 Photographs and an Aerial View have been provided.)**
3. Item #25 – R.O.W. widths of existing roads.
4. Item #32 – Driveway material to be shown.
5. Item #38 – Three (3) copies of certified property owners list.
6. Item #40 – Notice of Publication.

D. Relief Required

The Applicant currently seeks use variance relief to place a 15 ft x 8 ft food truck at the southerly corner of the property in the General Business Zone. The Applicant requests a waiver from providing a formal site plan.

1. Per §215-4.19A & §215-4.19C a food truck is not a permitted principal or conditional use. It should be determined if a food truck is an accessory use. Testimony should be provided. A ‘d-1’ use variance may be required.
2. Per §215-4.19A a single-family dwelling is not a permitted use in the General Business Zone. Therefore, the existing dwelling is an existing non-conforming use. An expansion of a non-conforming use may require a ‘d-2’ use variance.
3. Per §215-4.19B(6) other customary accessory uses, buildings, and structures, which are clearly incidental to the principal use are permitted accessory uses.

E. Variance & Waivers

1. The Applicant requests variance relief under N.J.S.A. 40:55D-70(d)(1) (commonly referred to as a ‘d-1’ Use variance) to place a food truck on the property in the General Business Zone.
2. The Applicant may require variance relief under N.J.S.A. 40:55D-70(d)(2) (commonly referred to as a ‘d-2’ variance for an expansion of a Non-Conforming Use) to place a food truck on the property with a single-family use in the General Business Zone.
3. Additional variance or waiver relief may be required pending Applicant's response to the issues identified in the body of this report.

In order for the Board to grant a ‘d-1’ variance, The Applicant has the burden of demonstrating “Special Reasons” for granting the use variance as well as offering an “enhanced quality of

proof” which states that the variance is not inconsistent with the intent and purpose of the master plan and zoning ordinance (Positive Criteria). The applicant should also demonstrate that the requested relief can be granted without substantial detriment to the public good and will not impair the intent and purpose of the zone plan and zoning ordinance (Negative Criteria).

“Special Reasons,” the applicant should demonstrate that the proposed use carries out the purposes of zoning as listed in 40:55D-2 of the Municipal Land Use Law or that the refusal to allow the project would impose an undue hardship on the applicant. The applicant must present support for the first test within a Statement of Reasons contending that the proposed use promotes the purpose of zoning. In lieu of the Statement of Reasons, the applicant should provide a statement regarding the undue hardship which must relate to the land in question or unique conditions of the site.

With respect to the first portion of the Negative Criteria, the applicant must demonstrate that the requested relief can be granted without substantial detriment to the public good. The applicant must demonstrate that the proposed use will not have a negative impact on the adjacent properties, and that it will not cause such damage to the character of the neighborhood as to constitute “substantial detriment to the public good.” The applicant should provide testimony at the Zoning Board hearing.

In the second prong of the Negative Criteria, the applicant must demonstrate that the requested relief will not impair the intent and purpose of the zone plan and zoning ordinance. Testimony should be provided as to why the proposal will not impair the intent and purpose of the GB Zone and the Township Master Plan.

Both the Positive Criteria and Negative Criteria must be satisfied in order for the Board to grant ‘d’ variance relief. The granting of a ‘d’ variance requires five (5) affirmative votes.

In order for the Board to grant a ‘**d-2**’ variance, the applicant has the burden of demonstrating “Special Reasons” for granting the use variance (Positive Criteria). The applicant should also demonstrate that the requested relief can be granted without detriment to the public good and will not impair the intent and purpose of the zone plan and zoning ordinance (Negative Criteria).

“Special Reasons,” the applicant should demonstrate that the proposed use carries out the purposes of zoning as listed in 40:55D-2 of the Municipal Land Use Law or that the refusal to allow the project would impose an undue hardship on the applicant. The applicant must present support for the first test within a Statement of Reasons contending that the proposed use promotes the purpose of zoning. The applicant should provide a Statement of Reasons at the Zoning Board hearing. In lieu of the Statement of Reasons, the applicant should provide a statement regarding the undue hardship which must relate to the land in question or unique conditions of the site.

With respect to the first portion of the Negative Criteria, the applicant must demonstrate that the requested relief can be granted without substantial detriment to the public good. The applicant must demonstrate that the proposed use will not have a negative impact on the adjacent properties, and that it will not cause such damage to the character of the neighborhood as to constitute “substantial detriment to the public good.” The applicant should provide testimony at the Zoning Board hearing.

In the second prong of the Negative Criteria, the applicant must demonstrate that the requested relief will not impair the intent and purpose of the zone plan and zoning ordinance. Testimony should be provided as to why the proposal will not impair the intent and purpose of the GB Zone and the Township Master Plan.

Both the Positive Criteria and Negative Criteria must be satisfied in order for the Board to grant 'd' variance relief. The granting of a 'd' variance requires five (5) affirmative votes.

Under N.J.S.A. 40:55D-2, the MLUL enumerates as its purposes:

- a. *To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare;*
- b. *To secure safety from fire, flood, panic, and other natural and man-made disasters;*
- c. *To provide adequate light, air, and open space;*
- d. *To ensure that the development of individual municipalities does not conflict with the development and general welfare of neighboring municipalities, the county, and the State as a whole;*
- e. *To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment;*
- f. *To encourage the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies;*
- g. *To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial, and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all NJ citizens;*
- h. *To encourage the location and design of transportation routes, which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight;*
- i. *To promote a desirable visual environment through creative development techniques and good civic design and arrangement;*
- j. *To promote the conservation of historic sites and districts, open space, energy resources, and valuable natural resources in the State and to prevent urban sprawl and degradation of the environment through improper use of land;*
- k. *To encourage planned unit developments which incorporate the best features of design and relate the type, design, and layout of residential, commercial, industrial, and recreational development to the particular site;*
- l. *To encourage senior citizen community housing construction;*
- m. *To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land;*
- n. *To promote utilization of renewable energy resources;*

- o. To promote the maximum practicable recovery and recycling of recyclable materials from municipal solid waste through the use of planning practices designed to incorporate the State Recycling Plan goals and to complement municipal recycling programs;*

F. Zoning

1. Bulk Requirements: The PIQ is located within the GB Zone.
2. The chart below summarizes the area and bulk requirements for this zone in accordance with §215-4.19E:

	Required
Minimum Lot Area	22,500 SF
Minimum Lot Width	150 FT
Minimum Lot Depth	150 FT
Minimum Front Yard Setback	70 FT
Minimum Side Yard Setback - Principal	20 FT
Minimum Combined Side Yard Setback	40 FT
Minimum Rear Yard Setback	40 FT
Minimum Accessory Building Side Yard Setback	5 FT
Minimum Accessory Building Rear Yard Setback	5 FT
Maximum Building Height	40 FT
Maximum Building Coverage	50%

3. There are several existing uses as well as the proposed use on the property. The hierarchy of the uses should be determined.
4. The Applicant should provide a chart which reconciles the setback requirements for the existing and proposed structures on the site.

G. Review Comments

1. As stated in the application, the Applicant proposes to place a 15 ft x 8 ft food truck at the southerly corner of the property. No permanent structures or improvements are proposed. The Applicant proposes to remove the food truck nightly. However, the application narrative indicates that Applicant proposes 3 picnic style tables for customer use, and 5 proposed angled parking spaces located in front of the food truck along Route 9. Testimony should be provided to discuss the proposed use and improvements in detail.
2. The Applicant should provide testimony to discuss the existing/proposed uses on the site and the compatibility of the proposed use with the surrounding uses.
3. The hierarchy of the uses should be determined. It should be determined if the food truck use is a principal use or an accessory use.

4. The Applicant should provide testimony to determine that the property is suitable for the intended use.
5. The Applicant should provide testimony to determine that the use will serve the best interests of the Township.
6. Per §185-86 temporary structures should be erected for a period of less than 180 days. Temporary structures should be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the base flood. Fully enclosed temporary structures should have flood openings that are in accordance with ASCE 24 to allow for the automatic entry and exit of flood waters. Testimony should be provided to discuss if the food truck would be considered a temporary structure. The site is outside of the flood hazard area.
7. The Applicant should provide a chart which reconciles the setback requirements for the existing and proposed structures on the site.
8. The Applicant has requested a waiver from providing a formal site plan. Testimony should be provided.
9. The Applicant has provided a sketch (not to scale) of the proposed location of the food truck and parking spaces. All improvements should be provided on a plan to scale including the parking, food truck, and picnic benches. The material of the parking area should be labeled and dimensions shown to scale for the parking spaces and the distance from the parking spaces to the right-of-way line.
10. The Applicant is proposing to place the food truck within the front yard along Route 9. Setback dimensions should be shown for the food truck from the front and side yard. The Applicant should provide testimony to indicate what safety measures will be put in place for the food truck as well as the customers.
11. The Applicant should provide testimony to discuss the number of parking spaces required and proposed for this use to determine if adequate parking is provided.
12. The five angled parking spaces are proposed to back up onto Route 9. The Applicant should provide testimony to discuss vehicular circulation.
13. A certified property owners list within 200 ft of the site should be provided.
14. At least 4 photographs of the site for an accurate description on site. The Applicant has provided 2 site photographs and an aerial view where the food truck is to be placed. Additional photographs may be required.

H. Fees Required

1. Pursuant to §215-16.1, the following non-refundable administrative fee is required for this application:

§215-16.1A(1)(n)[4] Use Variance	\$ 50.00
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2. Pursuant to §215-16.2 of the Land Development Ordinance, the resolution fee is required:

	\$ 150.00
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3. Pursuant to Section 215-16.3, the following escrow fee is required for this application:

§215-16.3M(1)(a) Use Variance	<u>\$ 500.00</u>
Total Fees:	\$ 700.00

The Applicant has provided all required fees.

I. Recommendation

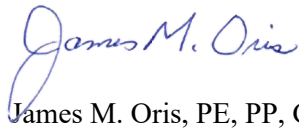
Based upon our review of the information submitted, we recommend that this application be deemed **complete** subject to the Applicant submitting the 200 ft property owners list and proof of taxes paid and complying with all applicable notification requirements at least ten (10) days prior to the hearing date as set forth in the Municipal Land Use Law.

Our office recommends that the Board proceed with the variance. The Zoning Board of Adjustment meets the second Wednesday of the month. Subject to the notice being provided by the Applicant, this application will be scheduled for a public hearing at the August 12, 2026, meeting at the Little Egg Harbor Zoning Board of Adjustment. By copy of this letter, we are informing the applicant of the items to be addressed.

Should you have any questions, please do not hesitate to contact me at (732) 286-9220.

God Bless America

REMINGTON & VERNICK ENGINEERS



James M. Oris, PE, PP, CME

EJP/JMO/MMG:mr

cc: Mr. Greg Leszega, Chairman
Ms. Suzanne Musto-Carrara, Vice-Chairman
Ms. Kelly Lettera, RMC, Acting Township Administrator
Mr. John Cooley, Zoning Officer
Ms. Debra Rumpf, Esq., Board Attorney
Mr. Jason Worth, P.E., Township Engineer
John LeVance, Owner/Applicant (buyriteshrubs@gmail.com)
Mr. Kevin S. Quinlan, Esq., Applicant's Attorney (kquinlan@ksqlaw.com)