



**TOWNSHIP OF FRANKLIN
Planning Board
Agenda
Wednesday, January 15, 2025**

CALL TO ORDER

SUNSHINE LAW

PLEDGE OF ALLEGIANCE

OATH OF OFFICE

- **Jennifer Rangnow**
- **Councilman Anbarasan**

ROLL CALL

MINUTES

RESOLUTION

Chad M. Rossbach / PLN-24-00003
[RESOLUTION.docx](#)

DISCUSSION

PUBLIC COMMENTS

HEARING

ONYX 789, LLC / PLN-22-00017

Preliminary & Final Major Site Plan w/C Variances in which applicant seeks to demolish existing building and construct a 102,733sqft warehouse at 785 Old New Brunswick Road, Somerset; Block 507.15 Lot 2.01 in zones B-I & RDO

DL 01/31/2025

CARRIED from NOVEMBER 06, 2024 – with no further notification needed
This meeting will be held @ 7:30pm at the Franklin Township Board of Education Campus at 2301 Route 27, Somerset, NJ.

<https://www.franklintwpnj.org/committees-commissions/planning-board/application-material/onyx-789-llc-pln-22-00017>

Police report #3 12.10.24 ok.pdf
Engineer (DM) report #4 11.27.24 ng.pdf
Planner report #3 11.14.24 ng.pdf
Health Department report 11.13.24 ok.docx
FTSA final memo 11.05.24.docx
EC report #2 05.02.23 ng.docx
Fie Prevention report 01.10.25.pdf

COMMITTEE REPORTS

WORK SESSION / NEW BUSINESS

ADJOURNMENT

**RESOLUTION OF THE PLANNING BOARD OF THE TOWNSHIP OF
FRANKLIN, SOMERSET COUNTY, NEW JERSEY,
DENYING MINOR SUBDIVISION APPROVAL AND ASSOCIATED VARIANCE
RELIEF TO CHAD M. ROSSBACH
CONCERNING PROPERTY LOCATED AT
4 FIRST STREET, SOMERSET, NEW JERSEY, AND
SAME BEING DESIGNATED AS BLOCK 449.01, LOT 42 AND 43**

Docket No. PLN-24-00003

WHEREAS, CHAD M. ROSSBACH (hereinafter referred to as "Applicant"), has applied to the Franklin Township Planning Board (hereinafter referred to as "Board") for Minor Subdivision approval and associated variance relief, for the premises currently designated on the Tax Map of the Township of Franklin as Block 449.01, Lots 42 and 43, located on what is commonly known as 4 First Street, Somerset, New Jersey, and is located within an R-20 residential zone district (hereinafter referred to as "Subject Property"); and

WHEREAS, this application falls under the jurisdiction of the Board for approval pursuant to N.J.S.A. 40:55D-1 et seq.; and

WHEREAS, the Applicant was represented by Peter U. Lanfrit, Esq.; and

WHEREAS, public hearings were held on the application on August 7, 2024 and October 16, 2024, at which time the Applicant presented testimony, witnesses, reviewed the minor subdivision plan and the case was opened for public comment; and

WHEREAS, the Applicant provided proof of service and publication of all proper notices and advertisements as required pursuant to the Municipal Land Use Law; and

WHEREAS, the Applicant is seeking minor subdivision approval and associated variance relief in order to subdivide the Subject Property into two (2) lots; and

WHEREAS, the Board heard the testimony, reviewed the exhibits and reports, and established a record that may be characterized as follows:

1. The following reports and/or correspondence were received and reviewed by the Board:
 - A. Minor Subdivision Application;
 - B. Application for Variance;
 - C. Plan entitled "Minor Subdivision Plan Prepared for 4 First Street," prepared by Fletcher Engineering, Inc., dated July 5, 2023, last revised October 3, 2024, consisting of three (3) sheets;

- D. Plan entitled "Plan of Topographic Survey prepared for 4 First Street," prepared by Fletcher Engineering, Inc., dated January 3, 2024, consisting of three (3) sheets;
- E. Architectural Plans entitled "Proposed New Single Family Dwelling, Rossbach Residence," prepared by Kurt J. Ludwig, AIA, dated October 12, 2023, last revised January 18, 2024, consisting of five (5) sheets;
- F. Report of the Delaware and Raritan Canal Commission dated January 25, 2024;
- G. Report of the Somerset County Planning Board dated May 29, 2024;
- H. Memorandum of John Hauss, Director of the Franklin Township Office of Fire Prevention dated June 11, 2024;
- I. Memorandum of Rashida Boima, REHS, MPH, of the Somerset County Health Department dated June 14, 2024;
- J. Technical Review Committee Report dated June 19, 2024; and
- K. Memorandum of the Franklin Township Environmental Commission dated July 1, 2024.

2. The following exhibits were marked into evidence:
 - Exhibit O-1 Photograph of Subject Property.
 - Exhibit O-2 Photograph of Subject Property.
 - Exhibit O-3 Photograph of Subject Property.
 - Exhibit O-4 Zoning Permit Application for Subject Property.
3. The following testimony was introduced at the hearing on August 7, 2024:
 - A. The Applicant's attorney, Peter U. Lanfrit, Esq., appeared before the Board on behalf of the Applicant. He indicated that the Applicant was seeking a Minor Subdivision and bulk variances to subdivide the Subject Property to create two (2) lots from the existing lot at 4 First Street, Somerset (Block 449.01, Lots 42 and 43) located in an R-20 Zone. He stated the Applicant's desire to take the existing 32,000 square foot ("SF") lot and subdivide it into two (2) 16,000 SF lots; retaining the existing home on one of the lots (proposed Lot 42.02) and building a new home on the second lot (proposed Lot 42.01).
 - B. Mr. Chad Rossbach came forward and was sworn in. Mr. Rossbach indicated that he resides at the Subject Property with his wife and three (3) children. He stated that he had owned and resided at the Subject Property for 14 years. Mr. Rossbach testified that he wished to subdivide the Subject Property to create proposed Lot 42.01 on which a new home for his family would be constructed. He noted that the present 1,000 SF, three-bedroom ranch home on the Subject Property was not adequate for

his family's needs; and that the existing dwelling would either be rented or sold once the new home was constructed.

Mr. Rossbach then addressed a comment on the June 19, 2024 Technical Review Committee's ("TRC") Memorandum regarding the pipelines on the Subject Property. He stated that, as his request, the dimensions and locations of the pipelines were delineated by the pipeline company. Mr. Rossbach indicated that the pipelines were then placed on the plans by his engineer based on the specifications given by the pipeline company. He stated that the driveway to the proposed house cross the pipeline; but confirmed that he has approval from the pipeline company to construct that driveway over the pipeline.

- C. Mr. Healey then mentioned that there was a sidewalk and some grading in for the proposed dwelling in the pipeline easement. In response, Mr. Rossbach testified that he reviewed all of the proposed site improvements with the pipeline company (including the sidewalk to the dwelling); and that the proposed improvements were acceptable to the pipeline company. He added that he had an e-mail confirmation of the approval from the pipeline company that could be supplied to the Board. Mr. Lanfrit stated that the Applicant would provide the Township the paperwork related to the proposed improvements located in the pipeline easement to confirm that Mr. Healey and the Engineering Department were comfortable with the approval from the pipeline company.
- D. Mr. Paul J. Fletcher, P.E., the Applicant's Engineer, came forward and was sworn in. The Board accepted his qualifications. He indicated that the Applicant's plans were prepared by him or at his direction. Mr. Fletcher stated that the Subject Property was a through-lot (with frontage on First Street and Second Street); noting that the existing home currently fronts on First Street. He reviewed the dimensions of the Subject Property; advising that it was 160 feet wide by 200 feet deep (from First Street to Second Street); comprising 32,000 SF. Mr. Fletcher confirmed the location of the Subject Property in the R-20 Zone. He noted that the Applicant proposed to divide the Subject Property in half; leaving the existing home on a lot with frontage on First Street (proposed Lot 42.02) and creating a vacant building lot with frontage on Second Street (proposed Lot 42.01). Mr. Fletcher added that a new, two (2)-story, single-family home was planned on proposed Lot 42.01.

Mr. Fletcher identified a number of variances associated with the Application; including:

- Minimum Lot Area: where 20,000 SF required - 16,000 SF proposed for each lot;
- Minimum Rear Yard Setback (proposed Lot 42.01): where 50 feet required - 20 feet proposed; and
- Minimum Rear Yard Setback (proposed Lot 42.02): where 50 feet required - 40.2 feet proposed.

Mr. Fletcher confirmed that, other than these variances, the Applicant's proposal met all of the bulk standards for the R-20 Zone.

In response to a Board inquiry regarding the distance from the existing dwelling on the Subject Property to the gas pipeline, Mr. Fletcher advised that the dwelling was about 50 feet from the pipeline. He further noted that the proposed dwelling was 25 feet from the pipeline; and indicated that a variance was required for this condition. Mr. Fletcher reiterated that the Applicant had the pipeline company stake out the pipeline location; and the location of the flags was located by a survey crew and accurately reflected on the Applicant's plans.

Mr. Fletcher then addressed the June 19, 2024 TRC Memorandum. He then indicated that the existing home was serviced by public sewer and a well. Mr. Fletcher stated that the new home would be serviced by public sewer. He indicated that the new home would also be serviced by public water, if available; otherwise, a well would be installed.

E. Mr. Lanfrit then advised that the Application had been reviewed by the Township Historic Preservation Advisory Commission on August 6, 2024; and that the Commission took no issue or exception with respect to the Application.

F. In response to a Board inquiry concerning the availability of public water to service the Subject Property, Mr. Lanfrit indicated that Maxwell Lane (which intersects First Avene at the Subject Property) contains a water main which the Applicant may be able to access to supply public water to the Subject Property. He agreed that the location of the water main in Maxwell Lane would be confirmed and the Applicant's plans revised accordingly.

G. Mr. Healey stated that the bulk table in the Land Development Ordinance contains a footnote with respect to minimum lot area related to whether a property is serviced by both public water and public sewer. Specifically, he indicated that the minimum lot area for lots services by public water and sewer is 7,500 SF in the R-7 Zone; 10,000 SF in the R-10 Zone; and

15,000 SF in the R-15 Zone. Mr. Healey advised that lots in the R-7 Zone, R-10 Zone and R-15 Zone which lack either public water or public sewer are required to be a minimum of 20,000 SF. He opined that this provision demonstrated a clear zoning purpose for the minimum size for lots which are not serviced by public water and/or public sewer; noting that such lots need a larger land area or a greater separation between the septic systems and/or wells.

- H. In response to an inquiry from the Board concerning the creation of one conforming lot and a smaller nonconforming lot, Mr. Lanfrit explained that the Applicant had examined the possibility of moving the lot line for the new lot closer to the existing dwelling to make the new lot bigger. He advised that it might not be able to make the new lot fully conforming. Mr. Lanfrit stated that moving the common lot line 10 feet closer to the existing dwelling would eliminate the issue that was raised in the report concerning the storm water management system; while providing a 30-foot rear yard setback for the dwellings on both properties.
- I. Mr. Fletcher advised that the new lot (proposed Lot 42.01) would have to be 160 feet by 125 feet to be conforming; which would result in the reduction of the lot containing the existing dwelling (proposed Lot 42.02) to 12,000 SF.
- J. The Board noted that creating a conforming lot would provide more space for the larger home; and allow for the inclusion of a well, if necessary. However, the Board questioned whether a subdivision had ever been previously approved to create two (2) nonconforming lots with variances from an existing conforming lot.
- K. In response to an inquiry from Mr. Healey regarding the location of the well for the existing home, Mr. Lanfrit indicated that the well was located in the front of the house and would not impact the location of the proposed lot lines.
- L. Mr. Lanfrit indicated that the Applicant was willing to revise the plans to create a conforming lot size for lot on which the new dwelling was proposed. He stated that the Applicant would then return at a later Board meeting with the revised plans.
- M. Chairman Orsini supported the revision of the plans to make the new lot more conforming to accommodate the new, larger dwelling; and to locate the existing dwelling on a smaller lot. He acknowledged that the variances would be exacerbated on the smaller lot; but opined that the smaller size of the dwelling would make the variances more tolerable. Chairman Orsini

also asserted that the Applicant could reduce the size of the proposed new house to fit better on the property and reduce the number and/or size of the variances.

- N. In response to a Board inquiry concerning the availability of public water on Maxwell Lane, Mr. Lanfrit indicated that the Applicant would investigate whether public water was available on Maxwell Lane before the next hearing before the Board. He further indicated that, if public water was available on Maxwell Lane, the Applicant would be willing to extend public to both properties. Mr. Lanfrit also advised that the Applicant would connect the new dwelling to public sewer, if it were possible.
- O. Vice Chair Brown expressed his opinion that making the new lot larger just to accommodate a larger home seemed more for a financial benefit to the Applicant than a better zoning alternative. He also asserted that the larger new home would be out of character for the neighborhood in which the Subject Property is located. Vice Chair Brown concluded by noting that he was not certain whether there was a sufficient basis to subdivide the Subject Property to create one or more nonconforming lots with variances.
- P. Dr. Chase expressed a slight preference for both lots being closer to the same size; instead of one being larger than the other to accommodate the larger home that was proposed. He also indicated a concern that the new home would be even closer to the pipeline than the existing house.
- Q. The Board questioned whether the Applicant's need for additional space could be accomplished through an addition to the existing dwelling; rather than a subdivision and new home. The Board further expressed a desire for more concrete information concerning the availability of public water to service the existing dwelling and new dwelling.
- R. Mr. Thomas also suggested that the Applicant obtain confirmation from the pipeline company that the proposed grading would be acceptable. Mr. Lanfrit agreed that the Applicant would obtain confirmation before returning to the Board.
- S. Following public comment on August 7, 2024, Mr. Lanfrit indicated that the Subject Property was not a conforming lot under the Township Land Development Ordinance. He stated that the ordinance prohibits through-lots; noting that the Subject Property has frontages on both First Street and Second Street.

T. At the conclusion of the hearing, the Applicant requested that the matter be adjourned to a future Board meeting to permit the Applicant time to address the concerns of the Board.

4. The hearing was opened by the Board for public comment and the following public comment was received at the hearing on August 7, 2024:

A. Ms. Cynthia Bacon, resident of Point Pleasant, NJ. She advised that she was acting as a representative of her surviving parent who owns property at 1440 Easton Avenue; which abuts the subject property. Ms. Bacon indicated that her mother had a medical condition that precludes her from attending the meeting. She noted that the Subject Property is visible from her mother's backyard. Ms. Bacon objected to the variances required for the setbacks, as well as the conversion of a conforming lot into two (2) nonconforming lots. She asserted that the granting of the subdivision and variance relief would detrimentally impact her mother's properties and the other properties in the neighborhood. Ms. Bacon also noted that the pipeline ran through a portion of her mother's property; and expressed a concern for safety; and protecting the pipeline and its easement. She noted that any hardship on the Applicant was self-created.

5. The following testimony was introduced at the hearing on October 16, 2024:

A. Mr. Lanfrit confirmed that the matter was carried from the Board's August 7, 2024 meeting. He indicated that at the prior hearing testimony was supplied by the Applicant and Mr. Fletcher in support of a minor subdivision with variances to create two identically sized lots. Mr. Lanfrit stated that one lot would contain the existing dwelling (proposed Lot 42.02) and the other would be used for the construction of a new dwelling (proposed Lot 42.01). He advised that during the August 2024 hearing, the Board expressed a preference for two different sized lots; namely, a lot of conforming size for the construction of the new dwelling (proposed Lot 42.01) and a 12,000 SF lot for the existing dwelling (proposed Lot 42.02). Mr. Lanfrit indicated that as a result of the comments received at the August 2024 hearing, the minor subdivision plans were revised to create a subdivision with a 20,000 SF lot and a 12,000 SF lot.

Mr. Lanfrit also provided additional information concerning the ability to obtain public water service for the Subject Property. He stated that the Applicant met with Township officials and discovered that the closest public water line is located on Easton Avenue. Mr. Lanfrit advised that the Applicant can connect the Subject Property to the public water line on Easton Avenue; and confirmed that the Applicant would accept as a

condition of any Board approval that the existing dwelling and new dwelling both be connected to public water.

Mr. Lanfrit further indicated that the Applicant contacted the adjoining properties owners to see if additional property could be acquired to make the subdivided lots larger; and more conforming to the requirements of the Land Development Ordinance. He advised that the Applicant was not successful in his attempts to acquire additional property; and indicated that such efforts were not required as part of the subdivision application.

Finally, Mr. Lanfrit confirmed that the Applicant had secured an agreement with the pipeline company permitting access across the pipeline for the new lot. He stated that a fully executed copy of the agreement was provided to Mr. Healey; and there was no issue with the driveway for the new lot crossing the pipeline.

- B. Mr. Kevin O'Brien, P.P., A.I.C.P, the Applicant's Professional Planner, came forward and was sworn in. The Board accepted his qualifications. Mr. O'Brien reviewed the new subdivision plan containing modifications made in responses to the Board comments received at the August 2024 hearing. He indicated that lot facing Second Street (proposed Lot 42.01) is now a conforming 20,000 SF lot and the lot containing the existing dwelling (proposed Lot 42.02) facing First Street would contain 12,000 SF.

Mr. O'Brien also identified the variances required based upon the change in the new lot line creating the subdivision. Specifically, he stated that the Applicant was seeking variances for minimum lot area for proposed Lot 42.02 (20,000 SF required/12,000 SF proposed), minimum lot depth for proposed Lot 42.02 (100 feet required/75 feet proposed), minimum rear yard setback for both lots (50 feet required/45 feet proposed Lot 42.01/15.16 feet proposed Lot 42.02) and minimum distance from the pipeline for both lots (100 feet required/25 feet proposed Lot 42.01/45 feet existing and proposed Lot 42.02). Mr. O'Brien asserted that the changes conform to the character of the neighborhood. He indicated that the change to the lot containing the existing dwelling would not be visible from the street; and that the new lot will be consistent with the other lots in the area.

Mr. O'Brien asserted that the Application meets the requirements of the Master Plan which encourages the diversity of housing, as well as infill and stabilization of current residential areas. He further opined that the Application advances the purposes of Municipal Land Use Law (specifically, purposes (a), (b), (g), and (i)); but gave no factual support for these conclusions. Mr. O'Brien indicated that there was not any negative

impact to the adjoining property owners and neighborhood; as the existing lot on First Street will not change in any way because the subdivision will split the Subject Property horizontally. He stated that the subdivided lots meet the character of the neighborhood; but failed to: (a) geographically define the neighborhood, (b) identify the zone or zone in which the properties were located and (c) explain the character of the neighborhood.

Mr. O'Brien stated that the Application can be granted without substantial detriment to the public good and without substantial impairment to the Zone Plan and Zoning Ordinance; but again, failed to provide any support for these conclusions with factual evidence. He then advised that he had studied the neighborhood and the lots surrounding the Subject Property. Mr. O'Brien advised that the neighborhood contained lots that were smaller in size to the Applicant's proposal (12,000 SF), as well as some similar in size to what was proposed. Based upon tax map data, he stated that the proposed lot provided as much or more lot area than 61% of the neighborhood; however, no identification of the neighborhood was provided.

In response to an inquiry from the Board, Mr. O'Brien confirmed that the setback variance relief would be located between the two lots being created by the subdivision; and that the variances would not affect any neighboring properties. He further noted that anyone who would buy the newly subdivided lot would be aware of the setback of the existing home. Mr. O'Brien opined that the variances could be granted under a (c)(2) analysis; and that the benefits from the granting of the variances would substantially outweigh any detriments.

In response to an inquiry from Vice Chair Brown concerning the benefits of the Application, Mr. O'Brien reiterated his previous testimony regarding the provision of additional in-fill housing and not a "green field" type of housing. He further identified an advantage from the provision of public water to both residences. Mr. O'Brien confirmed that the one (1) conforming lot facing Second Street and the smaller lot facing First Street are in character with the neighborhood. He indicated that his opinion was based upon his survey of the properties between First Street and Second Street; which he determined was the immediate character of the neighborhood. Mr. O'Brien concluded that the proposed two lots were similar to or larger than 61% of the homes in that neighborhood.

- C. In response to a Board inquiry concerning the Township's 100-foot setback requirement for the pipeline, Mr. O'Brien confirmed that many municipalities adopted similar ordinances following a pipeline disaster in

the 1990's. He advised that he did not see any specific concern with the Application before the Board.

- D. Dr. Chase expressed his preference for two equal sized lots; as the current proposal would leave the existing home with a very small rear yard setback (15 feet). Mr. Lanfrit stated that the pipeline only went through a small corner of the new lot; leaving significant side-yards available (44 feet and 45 feet).
- E. Chairman Orsini acknowledged that the Board, as a whole, expressed a preference for one (1) conforming lot (for the construction of a modern home) and a smaller lot (for the existing dwelling). He assured the Applicant that the Board would be ruling on the Application.
- F. In response to a Board inquiry concerning the possibility that the existing dwelling could be demolished in the future and a new dwelling constructed on the lot, Mr. Healey advised that, in such circumstances, if someone exceeded footprint of the existing dwelling variance approval would be required.
- G. In response to a Board inquiry concerning constructing an addition on the existing dwelling in lieu of a new dwelling, Mr. Rossbach explained it is not economically feasible to reconfigure the existing dwelling. He advised that the existing dwelling is a one-story ranch with all living spaces on a single floor; and that renovation for a two-story dwelling would require demolition of the entire interior of the home. He stated that it is more cost-effective to construct a new dwelling and permit the existing dwelling to remain a ranch which could be used as a starter home. Mr. Rossbach advised that he is a contractor; and constructing a new dwelling is more economical.
- H. Mr. Healey asked how they would make sure that public water was run to the existing home. Mr. Lanfrit indicated that they could make it a condition of approval. He added that Mr. Rossbach would be the owner of both homes, and they might be able to run the water line before they file the subdivision deed. Mr. Lanfrit also stated that they could put a deed restriction in the subdivision deeds that Mr. Rossbach would be subdividing it and own both lots and that neither lot could be conveyed until water was brought to both houses.
- I. The Board acknowledged a discussion at the August 2024 hearing concerning the rationale behind zoning and variance relief; and questioned the basis for the variances requested in the Application.

- J. Following public comment at the October 16, 2024 hearing, Mr. Lanfrit provided a closing statement on behalf of the Applicant. He acknowledged the pipeline easement encumbering the Subject Property; but stated that the easement merely gives the company to put the pipeline in the easement area. Mr. Lanfrit asserted that the Applicant still owns the portion of the Subject Property encumbered by the easement; and is free to use the easement area with the consent of the pipeline company. He reiterated that the Applicant had secured approval from the pipeline company to run the driveway for the new lot over the easement; and had supplied a copy of the approval to the Township.
- K. Regarding the subdivision, Mr. Lanfrit stated that the public comment against the Application focused on (c)(1) variance relief; and was not relevant to the (c)(2) variance analysis testified to by Mr. O'Brien. He then reviewed the testimony of Mr. O'Brien concerning the character of the neighborhood in which the Subject Property is located; noting that the neighborhood does not include a 32,000 SF lot with a single-family home. Mr. Lanfrit stated that the neighborhood did not have any consistent lot sizes; noting that it includes 4,000 SF lots, 6,000 SF lots and 20,000 SF lots. However, he asserted that a 32,000 SF lot is an anomaly for the neighborhood. Mr. Lanfrit stated that either subdivision option proffered by the Applicant (two (2) 16,000 SF lots or 12,000 SF and 20,000 SF lots) would be consistent with the character of the neighborhood in which the Subject Property is located. He concluded by indicating that a 7,500 SF home built on the 32,000 SF Subject Property would create a lot that was out of character with the neighborhood and not consistent with zoning.
- L. In response to an inquiry from the Board, Mr. O'Brien indicated that there were no other 32,000 SF lots in the neighborhood; but identified a 30,000 SF lot in the neighborhood of the Subject Property at 30 Culver Street.
- M. Dr. Chase stated that he would have liked Mr. O'Brien to have provided a document showing the lot sizes in the neighborhood of the Subject Property. Mr. Lanfrit stated that the Applicant could adjourn the matter that evening and get that information to the Board; however, the Board indicated that such a document was not necessary to dispose of the Application at the hearing.
- N. Chairman Orsini then reviewed the difference between a (c)(1) variance and a (c)(2) variance; and the proofs required for each type of variance.

6. The hearing was opened by the Board for public comment and the following public comment was received at the hearing on October 16, 2024:

- A. Ms. Bacon appeared in opposition to the Application. She reiterated that her mother owns 1440 Easton Avenue; which is located adjacent to the Subject Property.
- B. Chairman Orsini asked Mr. O'Brien to enter into the record his analysis on the sizes of properties in the immediate vicinity of the Subject Property; and provide a copy to the Board which could then provide a copy to Ms. Bacon.
- C. In response, Mr. Rossbach provided testimony concerning the size of the properties in the vicinity of the Subject Property. He indicated that the homes adjacent to the Subject Property measure 100 feet by 100 feet (10,000 SF lot), the home on the corner of First Street and Culver Street is also 100-foot by 100-foot lot (10,000 SF lot); and that the house that backed up it on Second Street is a 0.28-acre lot. Mr. Rossbach indicated that each of these lots is smaller than the proposed lot for the ranch home (12,000 SF). He then identified a cluster of three (3) homes in a row; indicating that each lot was 6,000 SF with very small homes.
- D. Mr. O'Brien then providing additional information concerning lot sizes in the neighborhood; specifically, 26 Culver Street (16,000 F), 28 Culver Street (4,000 SF), 12 First Street (10,000 SF), 8 First Street (10,000 SF), 14 Maxwell Lane (4,000 SF), 12 Maxwell Lane (8,800 SF), 18 Culver Street (12,000 SF).
- E. Ms. Bacon expressed her appreciation and support of the Applicant's desire to construct a new modern home for his growing family; however, she asserted that the new dwelling should constructed on the entire Subject Property. She indicated that she did not support the subdivision of the Subject Property. Ms. Bacon then discussed the reasons for her opposition; including the need for variances for the smaller proposed lot. She also proffered series of photographs of the Subject Property; entered into the record by the Board as Exhibit O-1, Exhibit O-2 and Exhibit O-3. Ms. Bacon explained that each exhibit contained photographs taken of the Subject Property. She then noted that the fourth exhibit was a zoning permit application for the Subject Property.
- F. Ms. Bacon then referred to the present Applications that were filed to the Board and are part of the record; noting two (2) applications were filed, that were not updated, but remain of record. She stated that Parts C or D in each Application broadly ask if there had been any previous appeal request or application to this or any other Township boards or Technical Review Committee involving the Subject Property. Ms. Bacon advised that the Applicant responded "No" on both documents; which were signed

and notarized. However, she went on to state that public record revealed at least two (2) requests for a Zoning Permit (initially in 2018 - updated in 2022) from Applicant to construct an oversized, free-standing garage on the Subject Property. She then noted that the Application was returned by the Township to Mr. Rossbach with further instructions as to how to properly apply for the Zoning Permit for the garage. Ms. Bacon questioned the implications for misrepresentation or omission on an application by the Applicant.

Ms. Bacon then identified a prior zoning violation for operating commercial use on the Subject Property; and asserted that the Applicant continues to use the Subject Property for a commercial operation (including commercial vehicles parking in the street on First Street and a backhoe front end loader parked adjacent to the house).

Ms. Bacon asserted that additional work was performed on the dwelling on the Subject Property without any public record of the work; including the elevation of the existing dwelling through the addition of rows of cinderblocks. She argued that such work required municipal permits, inspections and a certificate of occupancy; and none of those documents were part of the public records available at the Township. Ms. Bacon then requested that the Board to deny the subdivision; asserting that such a denial would have no bearing on the ability of the Applicant to construct a larger home on the Subject Property for his family.

- G. In response to an inquiry from Mr. Lanfrit, Ms. Bacon confirmed that she is not a resident of the property at 1440 Easton Avenue. She reiterated that her mother resides at 1440 Easton Avenue; and that she periodically stays there to care for her mother who she indicated suffers from disease. In response to further inquiry from Mr. Lanfrit, Ms. Bacon advised that she does not current reside in Franklin Township; but noted that she is a former resident of the Township.
- H. In an attempt to resolve the implication by Ms. Bacon that the Applicant misrepresented prior applications and/or appeals on the present Application, the Board Attorney advised Ms. Bacon that a Zoning Permit does not go to a Township Board. He indicated that a Zoning Permit Application is filed with the Township Zoning Officer; who determines whether or not what was being requested on the Zoning Permit Application is permitted. The Board Attorney indicated that if permitted, it is approved; and if not permitted, it is denied. He added that frequently, a denial of a zoning permit would be something that might be a predecessor to a Zoning Board Application, but not something that was encompassed within the request on the Application Form. The Board Attorney stated

that Mr. Rossbach's "No" answer on the present Application was appropriate.

- I. Mr. Lanfrit then asked Ms. Bacon what single-family home lots in the immediate neighborhood and contain 32,000 SF on them since she seemed so familiar with the neighborhood that she didn't live in. Ms. Bacon indicated that she didn't know the answer to that question.
- J. Mr. John Petrine, 13 Walnut Avenue, Somerset, NJ, came forward and was sworn in. Mr. Petrine stated that the neighborhood contained many lots which were similar in size to the Subject Property. He asserted that there was no reason that the Applicant could not build one home on the Subject Property; as such a dwelling would be consistent with other lots in the neighborhood.

7. The following comments were made by members of the Board at the conclusion of the hearing on October 16, 2024:

- A. Dr. Chase voted to deny the Application indicating that he did not believe in creating undersized lots by subdivision; and further objected to creating a very shallow, very small rear yard setback of the lot with the existing house. He felt the house was constrained by the pipeline easement and probably could have been developed somewhat better with the same sort of variance if not for the pipeline easement.
- B. Mr. LaCorte voted to deny the Application indicating that he had an issue taking a conforming lot and creating two nonconforming lots. He further stated that the water is an issue; and the pipeline is an issue.
- C. Vice Chair Brown voted to deny the Application stating he respected the Applicant, what he is trying to do for his family and his property rights; but opined that the Board cannot merely ignore the requirements of the Township's Zoning Code.
- D. Ms. Hilbert voted to deny the Application; stating that she concurred with Vice Chair Brown that the Board should uphold the Township's Zoning Code.
- E. Mr. Dancy voted to deny the Application; stating that the Applicant still had the opportunity to build the family home that he needed on the Subject Property without subdividing the property.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Franklin, that it does hereby make the following findings of fact and conclusions of

law based upon the testimony given in the matter, and reports, documents and materials provided to the Board:

1. Applicant, Chad M. Rossbach, is the owner of real property located at 4 First Street, Somerset (Block 449.01, Lots 42 and 43). The property is located within an R-20 residential zone district. The Subject Property contains 32,000 SF of lot area and is currently improved with a single-family dwelling.
2. Applicant is seeking to subdivide the Subject Property to create two (2) lots. One lot (proposed Lot 42.02) will front on First Street, consist of 12,000 SF and contain the existing single-family dwelling. The other lot (proposed Lot 42.01) will front on Second Street, contain 20,000 SF and be improved with a new single-family dwelling.
3. The Applicant requests bulk variance relief related to minimum lot area (proposed Lot 42.02), minimum lot depth (proposed Lot 42.02), minimum rear yard setback (both proposed lots) and minimum setback to pipeline (both lots) (hereinafter collectively the "Applicant's Variances") in connection with the minor subdivision application.
4. The Board concludes that there is no hardship present related to the size and shape of the Subject Property. The Board acknowledges that the Subject Property is a through lot not permitted under the Land Development Ordinance but rejects the Applicant's assertion that this condition justifies minor subdivision approval and the Applicant's Variances. Further, the Applicant could expand the existing single-family dwelling to accommodate his family; raze the dwelling and construct a new dwelling; or find a different site to meet his family's needs.
5. The Board rejects the assertion that the Applicant is entitled to minor subdivision approval and variance relief pursuant to N.J.S.A. 40:55D-70(c)(2) related to the Applicant's Variances. Mere recitation of the purposes of zoning from N.J.S.A. 40:55D-2 by the Applicant's Planner without any connection to the present application is insufficient to demonstrate any benefit to the public good. Further, while the application would result in a new homeownership opportunity within the Township (the only benefit that the to the Township the Board can glean from the testimony), that benefit must be balanced against the Applicant's Need for the Applicant's Variances. While the Applicant proffered testimony in support of the proposed lot sizes, the Applicant and his professionals failed to demonstrate that the lot depth, rear yard setbacks and pipeline setbacks are compatible with other properties in the neighborhood of the Subject Property. The Board concludes that the benefits from granting minor subdivision approval and the Applicant's Variances would not substantially outweigh any detriment.

DENIAL OF MINOR SUBDIVISION
WITH VARIANCES
DOCKET NO. PLN-24-00003
CHAD M. ROSSBACH

6. The Board acknowledges that Mr. O'Brien also gave his opinion that granting of the Application would further several goals and objective of the Township's Master Plan; particularly, encouraging infill development and stabilization of a residential neighborhood. The Board rejects these opinions. The present Application is not one of infill development. Furthermore, based upon the Board's knowledge of local conditions, this neighborhood is already stable and does not require a new house.
7. Minor subdivision approval and the Applicant's Variances cannot be granted without substantial impairment to the intent and purpose of the Township of Franklin Zone Plan and Land Development Ordinance. The granting of the Applicant's Variances would result in a lot (proposed Lot 42.02) which is only 60% of the lot area required in the R-20 Zone, as well as the balance of the Applicant's Variances.
8. Minor subdivision approval and the Applicant's Variances cannot be granted without substantial detriment to the public good. The Board notes that the necessity of the Applicant's Variances in connection with the minor subdivision approval would compromise the traditional Municipal Land Use goal of light, air and open space.

BE IT FURTHER RESOLVED, by the Planning Board of the Township of Franklin that Applicants request for minor subdivision approval with bulk variances is hereby denied.

Christine Woodbury, Planning Board Secretary

VOTE ON MOTION: 10/16/2024
FOR:

Councilman Ram Anbarasan
Chairman Michael Orsini

AGAINST:

Dr. Theodore Chase
Robert LaCorte
Vice Chairman Charles Brown
Rebecca Hilbert
Marc Dancy

ABSTAINS:
NONE

VOTE OF RESOLUTION: 01/15/2025
FOR:

ABSTAINS:



FRANKLIN TOWNSHIP POLICE

TRAFFIC SAFETY BUREAU



I have reviewed the above captioned subject plans and have no comments at this time.

This office reserves the right to make additional comments based on future submissions and/or testimony before the Board.



Consulting & Municipal
ENGINEERS

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MEMO TO: Township of Franklin
Planning Board
Don

FROM: Darren Mazzei, PE, CME
Township Engineer's Office

DATE: November 27, 2024

RE: **ONYX 789, LLC**
Preliminary & Final Major Site Plan
Report #4
Engineering
Block 507.15, Lot 2.01
785 Old New Brunswick Road
Franklin, New Jersey
Our File: PFRP0507.13/600.01
Application # PLN-22-00017

As per your request, this office has reviewed the following documents relative to the above referenced preliminary and final site plan application:

- Preliminary and Final Major Site Plan, as prepared by Bohler Engineering NJ, LLC, dated June 3, 2022, with a latest revision date of October 17, 2024;
- Architectural Plan, as prepared by Mancini Duffy, Inc., dated February 11, 2022, with a latest revision date of October 18, 2024;
- Boundary & Topographic Survey, as prepared by Control Point Associates, Inc., dated September 23, 2021, with a latest revision date of March 27, 2023;
- Stormwater Management Report, as prepared by Bohler Engineering NJ, LLC, dated June 2022, with a latest revision date of October 2024;
- Stormwater Management Facilities Operations & Maintenance Manual, as prepared by Bohler Engineering NJ, LLC, dated June 2022, with a latest revision date March 2023;
- Environmental Impact Statement, as prepared by Bohler Engineering NJ, LLC, dated June 2022, with a latest revision date of October 2024;
- Preliminary Assessment Report, as prepared by EXCEL Environmental Resources, Inc., dated August 2014, with no revisions;
- Traffic Impact Statement, as prepared by Dolan & Dean Consulting Engineers, LLC, dated June 14, 2022, with a latest revision date of October 17, 2024;
- WB-67 Truck Turning Exhibit, as prepared by Bohler Engineering NJ, LLC, dated September 28, 2021, with a latest March 30, 2023;

CONSULTING AND MUNICIPAL ENGINEERS LLC
NJ CERTIFICATE OF AUTHORIZATION NO. 24GA28359000
Barnegat • Berlin • Camden • Howell • Medford • Monmouth Junction • Parlin



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- Application Forms.

The following comments are offered with regard to same:

A. PROJECT OVERVIEW

The site is located at the northwest corner of the T-intersection of Old New Brunswick Road and New Brunswick Road. The site is approximately 6.15 acres and is located in the B-1 (Business and Industry) zone. The site received Board Approval, as part of Docket PLN-15-00015, which proposed a retail development containing an approximate 55,419 sf building. This application is currently proposing to construct a 91,309 sf building (89,314 sf warehouse and 1,995 sf office), with 10 truck docks and a truck court to the southeast, and one (1) parking lots totaling 43 spaces, a truck access driveway, a passenger car access driveway, concrete curb, sidewalk, utilities, grading, lighting, landscaping, three (3) bioretention basins, one (1) subsurface infiltration basin and two (2) Filterra manufactured treatment devices (MTDs) to address NJDEP stormwater management rules.

We defer the review of the zoning related issues to the Board Planner except where they may pertain to engineering issues.

B. GENERAL SITE IMPROVEMENTS

1. Official street address shall be obtained from the Franklin Township 911 Coordinator.
2. An Engineering Cost Estimate will be required once final plans are signed-off on by the Board. Upon approval, applicant shall provide appropriate bonds and Engineering inspection fees and attend a pre-construction meeting, prior to any site work.
3. Note: A preconstruction meeting will not be scheduled until the developer/ site contractor provides a Fire Safety During Construction Plan Demonstrating Compliance with Chapter 33 of the International Fire Code. Should the Board act favorably on this application a copy of the Township's, 'Steps to a Construction Project' will be provided.
4. All fees shall be paid by the applicant at the time of adoption of a resolution of site plan approval for the cost of making upgrades and modifications to the geographic information system (GIS) (§112-329)
5. This office recommends sidewalk be provided along the property frontage along New Brunswick Road.
6. In accordance with Ordinance §112 – Schedule 4, the applicant's engineer indicated that 47 parking spaces are required for the warehouse and office use and 43 physical parking spaces are proposed. The applicant is proposing four (4) EVSE parking spaces; therefore, as noted in ordinance §112-33.7.E.(2), a parking space prepared for EVSE or make-ready shall count as two parking spaces for the purpose of complying with a minimum parking requirement. Including the EVSE credit, the parking demand has been met.
7. Based on the 47 total parking spaces, two (2) barrier free parking stalls are required, one (1) of which is required to be van accessible. The applicant is proposing two (2) barrier free spaces, one (1) of which is van accessible spaces; however, as noted in the DCA (EVSE) Ordinance FAQs dated January 2024, 'Accessible EVSE and Make-Ready parking spaces cannot be used to address the general accessible parking requirements of the UCC, even if they have handicapped-only signage.' Therefore, the ADA parking demand has not been met for the project.



Consulting & Municipal ENGINEERS

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8. The site plan should be revised to comply with recently passed and signed S-3223 (P.L. 2021, c. 171) which the Governor signed into law on July 9, 2021, regarding the provision of EVSE and Make-Ready parking spaces. One EVSE/Make-Ready space are required, and the applicant is proposing four (4) EVSE parking spaces. As noted above the EVSE spaces within the ADA accessible parking space should be relocated. The EVSE parking demand is met for the project.

Details of the charging station equipment and signage should be provided.

9. This office defers to the Fire Prevention Officer as to the appropriate number of Fire Hydrants, Fire Department Connection, and their location. We defer to the Fire Prevention Officer regarding the need of 'No Parking' fire lane signage and striping.
10. The Applicant's Engineer should design the proposed curb ramps, sidewalks, and crosswalks, to meet the latest ADA requirements. The Applicant's Engineer should provide turning spaces before and after proposed ramps as necessary at the required slopes and the locations of proposed detectable warning surfaces should be clearly indicated. This ADA compliance issue should be reviewed relative to all curb ramps, sidewalks, and crosswalks currently proposed under this project. Crosswalks are required at both driveway entrances.
11. The applicant provided a truck turning circulation plan showing maneuverability of Franklin Township Fire Prevention Ladder Truck. Final approval of this circulation plan is required from the Fire Prevention Director.
12. The applicant is proposing to install a retaining wall, concrete loading docks, concrete curbing, hot mix asphalt driveway, fire and domestic water services, sanitary sewer lateral, gas service, electric service, telecommunications line and storm sewer pipes within the 20' wide Buckeye Pipeline easement that bisects the property. The applicant shall obtain approval from the Buckeye Pipeline for these improvements, or relocate all of these improvements outside of the existing Buckeye Pipeline easement.
13. The Traffic Report notes that the applicant does not have the rights to traverse the easement along Old New Brunswick Road after it becomes a private road approximately 40' northwest of the subject property; therefore, the site generated traffic will use New Brunswick Road and the public (southerly) portion of Old New Brunswick Road. This office recommends that application provide turning movements at Old New Brunswick Road and New Brunswick Road for a WB-67 vehicle. In addition, the truck driveway exit should be revised to be a right only with the appropriate signage and markings.
14. The stop bar and stop marking at the intersection of Old New Brunswick Road and New Brunswick Road is too close to the cross walk and not in compliance with the M.U.T.C.D.
15. The applicant has provided a sidewalk access easement for the sidewalk proposed along Old New Brunswick Road. Should the Board act favorably on this application, provide easement metes and bounds description, for further review prior to submitting to the Somerset County Clerk's Office.
16. The applicant has revised the WB-67 vehicle that was in conformance to AASHTO standards to WB-67 (NJ Title 39) reducing the length of the vehicle from 73.5 feet to 71.5 feet. In reviewing the requirements of a WB-67 (NJ Title 39) vehicle, the kingpin of a trailer shall not be set back further than 3.5 feet from the front of the semitrailer. The applicant is proposing a 5 foot distance which is not in conformance with NJ Title 39. Revision of the vehicle is required. The trucking turning movements cannot be reviewed until the vehicle design parameters are revised.



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C. GRADING AND UTILITY COMMENTS

1. Address the attached redline comments from the Township Water Department.
2. The applicant should address the following general grading comments:
 - Provide spot elevations within the concrete walkways to demonstrate ADA compliance for the accessible ramps. Spot elevations should delineate the proposed ramp slope and ADA compliant landings (maximum cross and running slopes of 2%, respectively);
 - Provide top of curb elevations for the proposed curb along Old New Brunswick Road.

The grading will be reviewed further when the above has been addressed.

E. STORM WATER MANAGEMENT

General

1. The stormwater management system design has been revised in this submission. The revised submission has replaced the porous pavement area with three (3) bioretention basins, one (1) subsurface infiltration basin, and two (2) Filterra Manufactured Treatment Devices (MTDs).
2. The reference project has been reviewed in accordance with the Stormwater Management Rules N.J.A.C. 7:8 as amended on July 17, 2023.
3. The project site is located within the review zone of the Delaware and Raritan Canal Commission, and the Applicant should obtain a certificate of approval or exception from the Commission. A copy of the permit should be provided to this office.
4. The proposed development proposes more than 1 acre of land disturbance and must obtain a General Permit for Construction Activities from the NJDEP. A copy of the permit must be provided to this office.
5. The Applicant must obtain a revised Soil Erosion and Sediment Control Certification from the Somerset-Union Soil Conservation District due to the major redesign. A copy of the plan certification must be provided to this office.
6. An executed Major Development Stormwater Summary (Attachment D of the Tier A MS4 NJPDES Permit) shall be submitted to this office for review and approval.
7. A stormwater maintenance agreement for the stormwater system should be provided to ensure future maintenance. A sample agreement is available from the Engineering Department.
8. The Applicant is proposing a disturbance in wetlands and wetland buffers. Applicant must obtain a wetlands disturbance permit from NJDEP. A copy of the permit must be provided to this office. NJDEP wetlands permit file number and date of issue should also be added to the plans. In addition, any "special conditions" of the wetlands permit approval should be added to the plans.



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Stormwater

9. Trash rack details should be provided for all outlet devices (orifices, weirs, overflow grates, etc.) shown on the proposed outlet structure. The trash rack should be in accordance with NJAC 7:8-5.7 and 7:8-6.2. **Trash rack details are missing from the plans.**
10. The drainage report should be updated to include a geotechnical investigations summary table listing the following for each BMP: area of BMP, depth of BMP; the number of test pits/boring/soils profiles performed for the BMP; seasonal high water table established; top of bedrock and demonstrate compliance with the number of soil investigations required by chapter 12 of BMP Manual. **The drainage report must be updated to include a summary table of the geotechnical investigation, as previously requested in this comment. Additionally, it should demonstrate compliance with the geotechnical program with the requirements of BMP Chapter 12.**
11. The NJDEP Geoweb shows a groundwater contamination plume under this site. Please provide information to substantiate that an infiltration BMP will be consistent with the remediation that was performed or is being performed at the project location. **A letter from a LSRP stating that the infiltration BMP can be used on-site and will not worsen the migration of the groundwater contamination plume will be required.**
12. All pipes must have adequate capacity to convey the 100-yr storm event unless the Applicant's engineer demonstrates that runoff from storms exceeding the 25-yr storm event will reach the underground basin and downstream detention basin via an alternate path. Revise drainage report accordingly. **The proposed BMPs are designed to manage runoff from a 100-year storm. All pipes leading to these proposed BMPs must be capable of conveying runoff from such a storm.**
13. Groundwater recharge calculations rely on the proposed recharge BMP and DW1 for recharge. Since the proposed underground infiltration basin may not work in its present form, the recharge calculations must be updated to match any revised stormwater management designs. **The recharge design has been revised to incorporate Stormtech chambers with infiltration. The recharge spreadsheet needs to be updated. The basin inflow area in the recharge spreadsheet indicates an inflow area of 6,290 square feet, while the HydroCAD model shows an inflow drainage area of 2,744 square feet (0.063 acres). The sub-surface infiltration basin will only recharge the volume below the invert of the outflow pipe. Therefore, the design dBMP should be 6 inches (outflow invert at 72.17 feet, basin bottom at 71.67 feet), rather than 19 inches. Additionally, the design dBMPu should be 34 inches (rim at 75 feet minus outflow invert at 72.17 feet), instead of 12 inches.**

New Comments Based Upon The Project Redesign

14. One-foot separation between the bottom of the stone layer below underdrains and the seasonal high water table is required. Bioretention basins do not meet this requirement and must be revised.
15. The construction details for bioretention basins on sheet C-912 should be revised to show the elevation of the bottom of the 3" gravel pack below the perforated underdrain (i.e., Bottom of Bioretention System), the elevation of the season-high groundwater table, and basin drain time.
16. All underdrains below the bioretention basins must be perforated. Labels on sheet C-501 should be revised to indicate perforated PVC. The size of the underdrains should be shown on the Bioretention construction details on sheet no. C-912.



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17. In accordance with BMP Manual requirements, post-construction testing must be performed on the as-built Bioretention basins to ensure that the installed BMP functions as designed. Where as-built testing shows a longer drain time than designed, corrective action must be taken, and the basin should be retested. Post-construction testing must include a determination of the permeability rates of the soil bed and the hydraulic capacity of the underdrain system. A note should be included in the site plan stating this requirement. (Sheet no. C-912)
18. An additional note should be added to the details on sheet C-912 indicating "the bioretention bed soil must be tested before delivery to the site and conform to the specifications of design permeability rates. A certification from the supplier or accredited laboratory will be required".

Sub-Surface Infiltration Basin

19. A site-specific basin cross-section shall be provided on the plans. The section must show the elevation of the bottom of the infiltration basin, the elevation of the season-high groundwater table, the maximum water elevation for the WQ storm, 2-yr, 10-yr, 100-yr storm event, and top of pavement elevation. Basin drain time should also be noted on the infiltration basin cross-section.
20. All aggregate used in the subsurface infiltration basin must be free from debris, silt, or other material that contributes to clogging. A note to this effect should be added to the subsurface infiltration basin detail.
21. Per the BMP Manual, pretreatment is required for small-scale subsurface infiltration basins. Any roof discharging to the small-scale subsurface infiltration basin should be treated by leaf screens, first flush diverters, or roof washers. Non-roof runoff or roof runoff co-mingled with stormwater from other surfaces must remove 80% of the total suspended solids (TSS) in the runoff generated by the Water Quality Design Storm. The stormwater management system must be revised to provide pre-treatment.
22. The stormwater management system design calculations use Stormtech model SC-310 for storage, while the construction plan shows Stormtech model SC-740. This discrepancy needs to be resolved.

O&M Manual (No revised O&M Manual provided)

23. O&MM must be updated to include information on the Contech Peak Diversion Stormfilter device being used on the site. **The Contech device has been removed from plans but two (2) Filterra devices are added. All figures, table and design info sections must be updated to include information on Filterra devices.**
24. The O&MM must be updated to include a schedule of regular inspections for all BMPS in one summary table form. **All inspection tasks for all proposed BMPs are needed in place for the maintenance personnel.**

Environmental Impact Statement

25. A search on NJ GEO Web shows groundwater pollution and remediation being performed at the project location. Information on this site remediation must be provided in the EIS report. **The EIS must be updated to summarize the information about the contamination present at the site, including the NJDEP case number, state whether any remediation is necessary or has been completed, and indicate if the site received a No Further Action designation from NJDEP.**



Consulting & Municipal ENGINEERS

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H. MISCELLANOUS

1. Revise/Add the following details based on Franklin Township standard details:
 - a. Provide a retaining wall detail;
 - b. No Idling sign detail;
 - c. EVSE charging equipment and signage details;
 - d. All sanitary sewer details shall be submitted directly to the Franklin Township Sewerage Authority for review and approval – Comment Only.

The Applicant is required to obtain either approvals or letter of no interest from the following agencies:

Outside Agencies:

- Delaware Raritan Canal Commission
- Somerset County Planning Board
- Somerset-Union Soil Conservation District
- New Jersey Department of Environmental Protection
- Buckeye Pipeline

Township Departments:

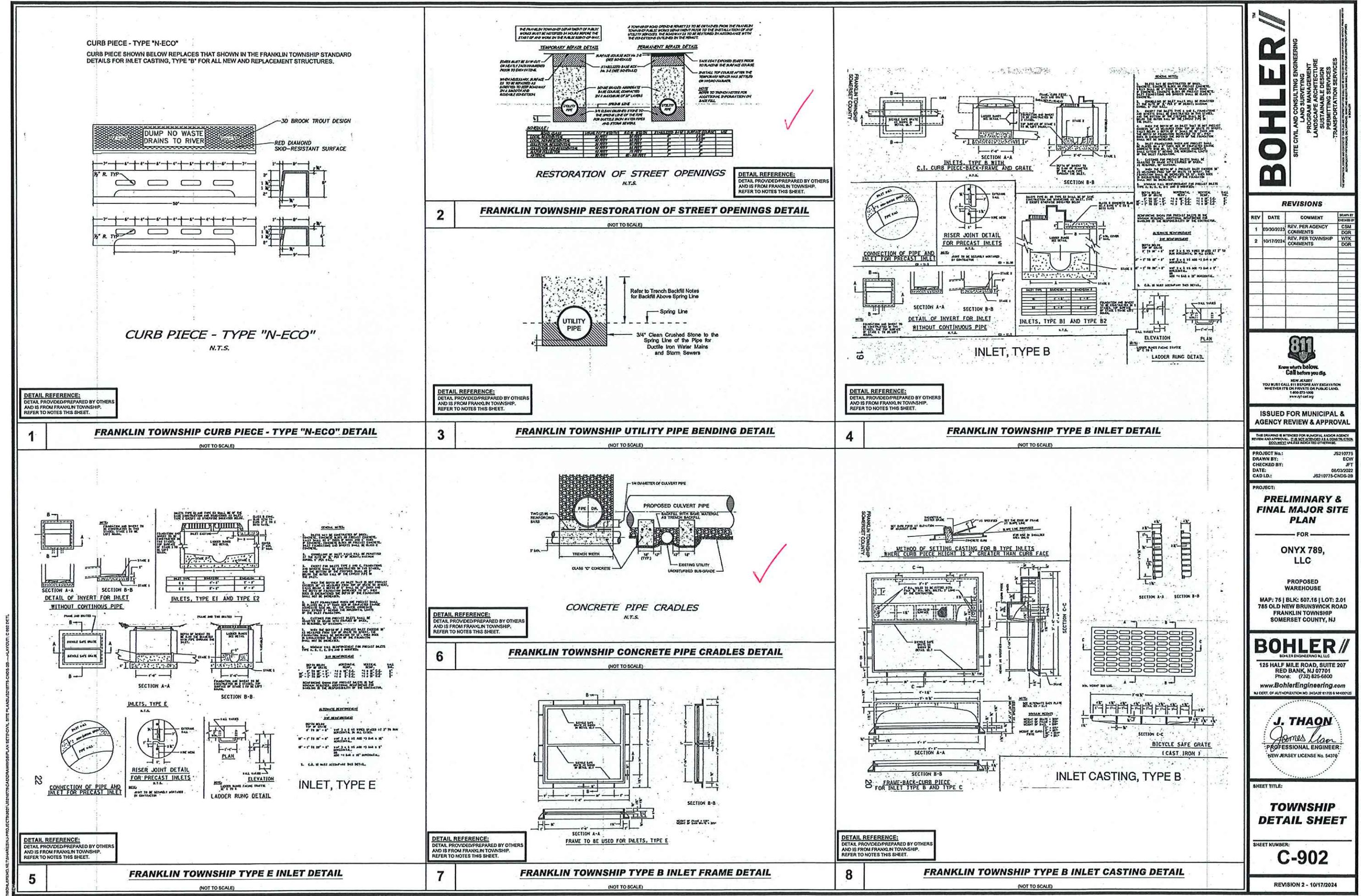
- Franklin Township Fire Department
- Franklin Township Police Department
- Franklin Township Sewerage Authority
- Somerset County Health Department – **No objection, 2024/11/13.**

It is requested that subsequent plan submittals be accompanied by a written description of the changes made compared to the prior submission. Preferably, this would be accomplished by providing a response to each of the review comments with a description of the plan changes and where the plan changes can be found (e.g., sheet number). If the plans have not been revised in response to a comment, the reason should be provided. The number of copies of this written description should be commensurate with the number of revised plans.

The Engineering Department reserves the right to make additional comments based upon the submission of revised plans or testimony presented to the Board.

Should you have any questions regarding this matter, please do not hesitate to contact this office.

DM/dm
cc: Planning Board Secretary



Franklin Township

Somerset County, New Jersey



DEPARTMENT OF PLANNING AND ZONING

Planning – Zoning – Affordable Housing
Planning Board – Zoning Board of Adjustment

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MEMORANDUM

TO: Planning Board

FROM: Mark Healey, PP/ AICP
Director of Planning/ Senior Zoning Officer

DATE: November 14, 2024

RE: ONYX 789, LLC - Preliminary and Final Major Site Plan with "c" Variances –
785 Old New Brunswick Road – Block 507.15 Lot 2.01 (PLN-22-00017)¹

As requested, I have reviewed the following documents relative to the above-referenced preliminary and final site plan application:

- 29-sheet set of site plans, prepared by Bohler Site Civil and Consulting Engineers, dated 6/3/22 revised 10/17/24
- 5-sheet set of architectural plans, prepared by Mancini: Duffy, dated 6/27/22 revised 10/18/24
- 1-sheet Boundary and Topographic Survey prepared by Control Point Associates, last revised 3/27/23
- 1-sheet WB-67 Truck Turning Exhibit, prepared by Bohler Site Civil and Consulting Engineers, dated 6/3/22 revised 3/30/23

SITE DESCRIPTION

The 6.15-acre site is a corner lot located at the intersection of New Brunswick Road/ Old New Brunswick Road. The site is located within the Business & Industry (B-I) zone and the Retail District Overlay (RDO) zone.

¹ Applicants represented by attorneys, engineers and/or architects (or other such professionals) are expected to use the video display system available in Council Chambers to project hearing exhibits. Use of the video display systems greatly improves visibility of these exhibits for the Board, the public and the Township's video broadcast of the hearing. In order to use the video display system, please bring a computing device capable of utilizing a HDMI connection. A cable is provided, however adapters are not so please make sure you have the required adaptors to connect to HDMI if necessary.

The site is currently occupied by a partially constructed building that was previously approved for retail development (Docket PLN-15-00015). A wetlands area and associated regulated buffer area exists in the southeast corner of the site.

Surrounding properties consist of a variety of uses: to the west and northwest exist retail developments along both sides of Old New Brunswick Road; to the northeast on the opposite side of the Old New Brunswick Road is a multi-story skilled nursing facility and a distribution center for a snack food company; and, to the south of the site on the opposite side of New Brunswick Road is Somerset Run, an age-restricted residential community within the Senior Citizen Village (SCV) residential zone.

PROJECT DESCRIPTION

The applicant seeks approval for the proposed development which consists of:

- Demolition of the existing building, associated parking, etc.
- Construction of a 91,309 square foot warehouse consisting of 89,134 square feet of warehouse space and 1,995 square feet of office space
- Access to the site is proposed via Old New Brunswick Road from two proposed curb cuts. The easterly curb cut would be a truck-only driveway serving the truck loading area (consisting of 10 loading bays and 1 drive-in ramp) proposed on the easterly side of the building. The westerly driveway would be a car-only driveway serving the 43²-space parking lot on the westerly side of the building. No access is proposed via New Brunswick Road.
- Associated site modifications including grading, tree removal, stormwater management, utilities, freestanding sign³, landscaping and lighting, etc.

The proposal requires the following approvals from the Township Planning Board:

- *Preliminary and Final Site Plan*
- “C” Variances:⁴
 - Setback from Gas line – 100 feet required⁵ - 46.3 feet proposed

² The provided number of parking spaces is technically 47 as each of the 4 EV spaces count as 2 spaces by law.

³ The size and height of this sign (and its compliance with applicable requirements) cannot be determined since no detail of the sign was included in the re-submitted plans.

⁴ The complete application was submitted prior to the effective date of Ordinance #4371-22 and #4391-22 which made certain amendments to the requirements of the B-I zone. Therefore, Ordinance #4371-22 and #4391-22 do not apply to this application.

⁵ Per §112-25 (Gas or fuel transmission lines): No structure designed for human habitation shall be placed within 100 feet of any gas or fuel transmission line.

With respect to the 'c' variances, the applicant needs to demonstrate whether each would satisfy the c-1 (hardship) and/or c-2 (advancement of the MLUL) criteria. With respect to the negative criteria, the applicant must demonstrate that the variances would not result in substantial detriment to the public good ("1st prong" of negative criteria) and will not substantially impair the intent and purpose of the zone plan and zoning ordinance ("2nd prong of negative criteria). Finally, the applicant must prove that benefits of granting the variances would substantially outweigh any detriments resulting from grant of the variances.

REVIEW COMMENTS

1. *Placement of Loading Areas.* The proposed site layout is inconsistent with §112-33.6.C which indicates that loading docks, truck parking, and other service functions should be located in a manner that minimizes their view from adjoining roadways. The site plan places the loading area facing New Brunswick Road, inconsistent with this standard notwithstanding the proposed fencing and landscape screening. I continue to recommend that the applicant investigate site layout changes to place the truck loading area in a less conspicuous location (i.e., on the opposite side).
2. *Building Height.* The building height calculations (49.64 feet – New Brunswick Road; 48 feet – Old New Brunswick Road) have been revised and are largely consistent with my calculations. However, as indicated previously and since the indicated height is less than a foot from the maximum permitted, the plans should be revised to reflect the following: the front elevations on the architectural plans and the grading plan need to identify the points used in the calculations (equally spaced points as indicated previously); and the front elevations need to show the average finished grades and depict measured building height from that line.
3. *Gas Pipeline Setback.* As noted above, the application requires a variance from the setback requirement from a gas pipeline (100-foot setback required where 46.3 feet is proposed). Further, the site proposed site plan modifications over the easement area. Consistent with prior approvals for the site, the applicant needs to demonstrate authorization from Buckeye Pipeline for the proposed construction over the pipeline easement. Testimony addressing this should be provided before the Board. I note the following condition of approval under Docket PLN-15-00015: "The applicant shall obtain all necessary approvals from Buckeye Pipeline, shall provide proof of necessary approvals to the Township and shall have a Buckeye Pipeline employee on-site during construction to the full extent mandated by Buckeye Pipeline."
4. *Attractively Landscaped Front Yards.* Section 112-33.6.A requires that front yards be attractively landscaped with shade trees placed 40-feet on center as well as ornamental and/or functional landscaping to screen parking, loading, or service areas located beyond the front yard. As addressed above the site plan places the loading area on the side of the site facing New Brunswick Road (which is inconsistent with §112-33.6.C which discourages such a site plan layout).

While landscape screening and fencing is proposed, the applicant needs to address this standard to the Board's satisfaction via testimony and exhibits. I recommend that part of this discussion involve whether the landscaping should consist of all new landscaping (and removal of the existing vegetation) or retention of the existing vegetation (supplemented by new landscaping/ fencing). Figure 4 shows the nature of the existing vegetation along New Brunswick Road.

5. *Building Design.* If not done so already, the applicant should present testimony and associated exhibit(s) demonstrating compliance with §112-33.6.D which indicates that the side(s) of the building facing and visible from adjoining roadway(s) should be designed and finished in an attractive manner and should present architecturally as the front of the building.
6. *Screening of Mechanical Equipment.* If not done so already, the applicant should present testimony and associated exhibit(s) demonstrating compliance with §112-33.6.E regarding the screening of mechanical equipment.
7. *Nonautomotive Modes of Transportation.* If not done so already, the applicant should present testimony and associated exhibit(s) demonstrating compliance with §112-33.6.F and G which indicate, respectively, that such development applications should appropriately take into consideration nonautomotive modes of transportation and appropriate accommodate for ride hailing services, bus and/or shuttle.
8. *Additional Plan Comments.*
 - a. The site plan complies with the tree planting requirement of Schedule 6 which requires 1 tree for every 2,000 square feet of paved area (34 trees required – 184 trees proposed).
 - b. The plan complies with the tree replacement requirements of Chapter 222. The total tree replacement for the site is 132⁶ while 184 trees of qualifying size are proposed.
 - c. The site plan complies with the lighting standards of §112-33.2.
 - d. The site plan should propose anti-idling signage.
 - e. If not done so already, the applicant should address in testimony whether the warehouse will be constructed so as to be "solar-ready."
 - f. The development would be subject to collection of an affordable housing development fee equal to 2.5% of any increase in equalized assessed value.

⁶ This requirement is the sum of the required tree replacement of this application (13 trees) plus the tree replacement requirement for the previous approval for the site under Docket PLN-15-00015 (119 trees).

Figure 1: Site Location

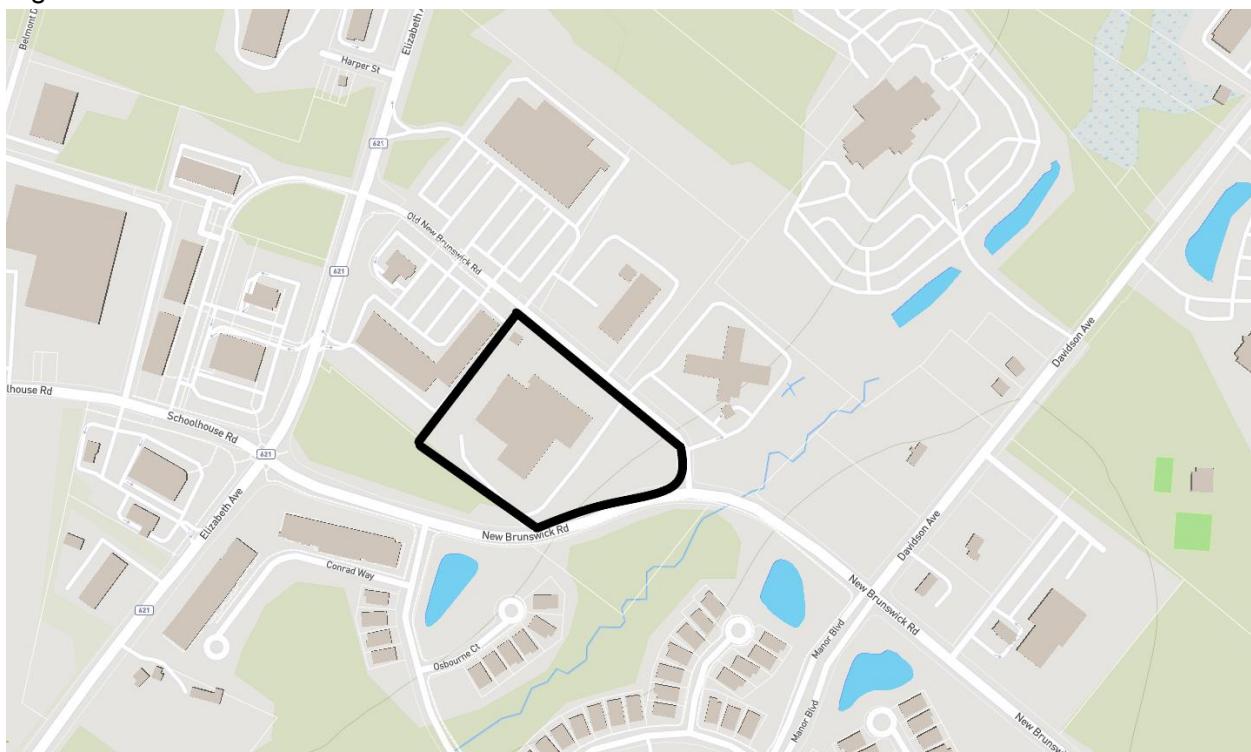


Figure 2: Site and Surrounding Area



Figure 3: New Brunswick Road frontage



Figure 4: New Brunswick Road Frontage



Figure 5: Old New Brunswick Road Frontage





**COUNTY OF SOMERSET
DEPARTMENT OF
PUBLIC HEALTH & SAFETY
DEPARTMENT OF HEALTH**



Director / Health Officer
TERRY CLANCY, PhD, RN, CEN, NRP
tclancy@co.somerset.nj.us

27 Warren Street
P.O. Box 3000
Somerville, New Jersey 08876-1262
(908) 231-7155
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healthdept@co.somerset.nj.us

Deputy Director
MICHAEL T. McCARTY
mccarty@co.somerset.nj.us

Memorandum

To: Planning Board

From: Rashida Boima, REHS, MPH-Consumer Health Program Coordinator

Date: November 13, 2024

Re: PLN-22-00017-ONYX 789, LLC-785 Old New Brunswick Road

Block: 507.15 Lot: 2.01

The Health Department has no objection to this application.

- Mission Statement -

The County of Somerset is committed to excellence and innovation in public service, promoting the well-being of all residents and communities by providing effective, efficient and responsive leadership.

Project Applicant: ONYX 789, LLC

Project Location: 785 Old New Brunswick Road, Township of Franklin, NJ

Block: 507.15; Lot: 2.01

Docket #: PLN 22-00017

Plan Type: Preliminary & Final Major Site Plan

The Applicant is proposing the development and construction of a one (1) story 91,309 square foot warehouse/office building. The facility will consist of 1,995 square feet of warehouse space and 89,314 square feet of office space. The Project site occupies Lot 2.01 of Block 507.15 and is located northwest of the intersection of New Brunswick Road and Old New Brunswick Road. The site is currently occupied by a one (1) story brick masonry building and a one (1) story residential building. Both structures will be demolished and removed prior to the start of construction.

The proposed facility will be serviced by a 6" diameter sanitary sewer lateral that will make its connection to a proposed private manhole structure within the subject property and ultimately discharge into the existing 8" diameter Authority owned sewer main located within Old New Brunswick Road via a wye-saddle connection.

The estimated Average Daily Flow to be generated by the proposed warehouse facility is approximately 3,725 GPD.

The following documents have been received with respect to the proposed Project:

1. Preliminary and Final Major Site Plan, as prepared by Bohler Engineering, dated June 3, 2022, last revised October 17, 2024;
2. Sanitary Sewer Design Report, as prepared by Bohler Engineering, dated June 2022, last revised October 2024;
3. Sanitary Sewer Cost Estimate, as prepared by Bohler Engineering, dated October 18, 2024;
4. Sanitary Sewer Specifications, as prepared by Bohler Engineering, dated June 2022, last revised October 2024;
5. Boundary & Topographic Survey, as prepared by Control Point Associates, Inc., dated September 23, 2021, last revised on March 27, 2023;
6. Architecture Plans, as prepared by Mancini:Duffy, dated June 27, 2022, last revised March 29, 2023.

Upon review of the above referenced documents, we find the Application to be in substantial compliance with the FTSA's Rates, Rules and Regulations. Accordingly, connection to the Authority's existing collection system is subject to the Applicant's compliance with the following mandatory conditions to be noted in the Township's Final Memo:

- Proposed Sanitary Manhole 101 exceeds a 2 vertical foot separation between invert in and invert out (approximately 4.1'). Please utilize an external drop manhole in accordance with the Authority's Standard Construction Details.
- Provide a sanitary cleanout approximately 1'-0" behind the edge of the pavement.
- Revised plans are to be submitted to the FTSA prior to the start of construction.
- Applicant to confirm utility crossing of storm sewer above sanitary proximate to the building structure has adequate vertical clearance. Concrete pier supports are to be utilized for storm sewer above sanitary sewer if clearance is less than 18 inches.

- The Applicant is to obtain all necessary Local, County or State permits where and as applicable including but not limited to Plumbing and Local Road Opening Permits.
- The Applicant is to provide proof of Site Plan Approval from the Township of Franklin Planning Board and/or Zoning Board of Adjustment.
- The Applicant is to provide the Authority with an electronic version of the approved plans by email to staffengineer@ftsa-nj.org prior to the start of the proposed sanitary sewer related improvements.
- An updated Probable Sanitary Sewer Construction Cost Estimate reflecting materials proposed on plans, including all applicable sanitary sewer related improvements in addition to utilizing items and unit prices listed in Appendix F of the Authority's Rates, Rules and Regulations has been prepared by the Authority and attached to this report.
- The Applicant is required to post sufficient FTSA Inspection Services escrow in the initial amount of \$1,416.01 equal to 5% of the Construction Cost Estimate in accordance with the Authority's Rates, Rules and Regulations.
- The Applicant is required to post a Performance Bond in the amount of \$33,984.30 equaling 120% of the Construction Cost Estimate with 90% (\$30,585.87) in form of a surety and 10% (\$3,398.43) in cash.
- The Applicant will be required to enter into a Developer's Agreement with the Authority in accordance with Appendix E.
- The Applicant's payment of all outstanding fees or balances due to the Authority.
- The FTSA's review and approval of all applicable Sanitary Sewer Shop Drawings prior to the start of the Project related sanitary sewer improvements.
- Prior to the start of construction, the Applicant is required to furnish a Certificate of Insurance as specified in Section 10 of the Authority's Rates, Rules and Regulations naming the Franklin Township Sewerage Authority and CME Associates as "additionally insured" with respect to the Liability Policy.
- The Applicant must provide forty-eight (48) hour advanced notification to the Authority prior to the start of all sanitary sewer construction related work.
- The Applicant is required to comply with the following conditions of the FTSA prior to the Authority recommending the Franklin Township's issuance of a Certificate of Occupancy:
 1. Final Inspection by FTSA Site Inspection personnel. Forty-Eight (48) Hour advanced notification is required.
 2. Applicant to coordinate with the FTSA for calculation of sewer connection fees associated with the Project in accordance with the Authority's Rates, Rules and Regulations.
 3. The Applicant's payment of all outstanding fees or balances due to the Authority.
 4. Sealed Sanitary Sewer As-Built (PDF on a CD, Full Sized Hard Copy, CAD Files) that includes the location, length, diameter, slope and material of sewers, as well as the manhole inverts and cleanout depths, as applicable.
 5. Applicant's submission of the required As-Built Information Assimilation Fee (\$0.50/LF with minimum charge of \$500). Assimilation Fee to be submitted via check made payable to the "Franklin Township Sewerage Authority".

The Applicant is required to maintain full compliance with the FTSA's Rates, Rules and Regulations throughout the remainder of the Application process and ultimately the construction of the proposed sanitary sewerage facilities. The Authority reserves the right to make additional comments based upon the submission of any revised plans and/or documents.

memo



TO: Christine Woodbury – Secretary to Franklin Township Planning and Zoning Boards

FROM: Tara Kenyon, AICP/PP – Sustainability Coordinator, Franklin Township

DATE: May 2, 2023

RE: Comments from Franklin Township Environmental Commission
Onyx 789, LLC
785 Old New Brunswick Road, Somerset
(Block 507.15 – Lot 2.01)
File #: [PLN-22-00017 \(Resubmission\)](#)

At its regularly scheduled meeting of May 1, 2023, the Franklin Township Environmental Commission ("EC") reviewed the above-referenced project. The following comments are submitted for consideration by the Franklin Township Planning Board:

- According to P.L. 2021, c.171 ("The Electric Vehicle Charging Station Act"), the EC finds that 3 EV Make-Ready parking spaces are required by the applicant for the proposed 53 parking spaces. Completed Electric Vehicle charging stations must be installed over a six-year period (1/3 at time completion of construction, 1/3 within 3 years of completion of construction, and the remaining 1/3 at within 6 years of completion of construction). The EC further recommends that the site be prepared for future electrified trucks and tractor trailers by installing 200-kilowatt EV charging capacity. In the future, this will allow the warehouse to meet the needs of electrified trucks, thereby attracting occupants who choose to incorporate sustainable practices into their operations.
- According to the Solar Ready Warehouses Law (NJSA 52:27D-123.19), effective July 1, 2022, all warehouses composed of 100,000 square-feet or greater are to be constructed as solar-ready buildings. To comply, a warehouse must set aside a minimum of 40% of its proposed roof area for future installation of solar photovoltaic or solar thermal system. As such, the applicant must set aside the minimum 40% of its roof area (approximately 41,093 square feet) and depict that clearly on the plans.
- The applicant proposes the use of pervious pavement not only in the passenger parking areas, but also in the truck loading areas and over the Buckeye Pipeline easement area. While the EC applauds the use of pervious pavement, it is recommended that the use of pervious pavement in areas other than passenger parking lots is approved for stability by the appropriate Township professional.
- The applicant proposes the removal of all existing trees, except for those in the undisturbed area in the eastern corner of the property, and in areas where no construction is proposed. The EC recommends the conservation of as many trees as feasible onsite, especially in areas that are not proposed for disturbance and/or development. Specifically, the following trees should be retained:
 - Two, 9" Red Oaks along frontage of New Brunswick Road
 - One, 9" Red Maple along frontage of New Brunswick Road

- One, 16" Pin Oak along frontage of New Brunswick Road
- Three, False Cypress Trees at the back corner of the property
- Three, Red Maples along border with existing shopping center

The applicant should consult the Franklin Township Shade Tree Commission's "Advisory – Do Not Plant List" when choosing replacement trees. Finally, the EC recommends that White Pines not be used in tree planting for buffering, as their lower branches tend to thin out over time, which significantly impairs buffering functions.

- Anti-idling signs should be placed at various locations around the site, specifically at the entrance and exits of the site, at every 4th loading dock, and on the door and/or window of the office. Signage should also be placed in consistent increments across the parking spaces.
- Bike storage and simple bicycle repair stations are recommended at least one location on the site. Having these amenities will encourage employees to use bicycles as an alternative means of transportation.

Please contact me with any questions at Tara.Kenyon@franklinnj.gov or 848-203.1857. Thank you!

Franklin Township

In Somerset County



OFFICE OF FIRE PREVENTION

Municipal Building

475 DeMott Lane, Somerset, NJ 08873-6704

Phone: 732-873-2500 Ext. 6303 Fax: 732-873-0804

January 9, 2025

To: Planning Board

From: John Hauss, Director
Fire Prevention

Re: Docket # PLN 22-00017
ONYX 789, LLC
785 Old New Brunswick Road
Block: 507.15 Lot: 2.01

Fire Prevention has the following comments on this application.

1. Additional fire hydrants are required; the Utility Plan contains a note regarding fire hydrants and water system layout – if Docket is approved this note must be made as a condition.
2. This site does not have active construction at this time. The site has numerous vehicles and trailers (some registered and some not) parked on the site, debris and piles of recycled materials (concrete and black top) are piled on the site. This site needs to be cleaned up.
3. We reserve the right to make additional comments based upon the submission of revised plans or testimony presented to the Board.