

**IN THE MATTER OF
GRANTING
THE APPLICATION OF
YELLOW BROOK PROPERTY CO., LLC
APPROVAL
BLOCK 94 LOT 5**

**RESOLUTION
PRELIMINARY AND FINAL
MAJOR SITE PLAN**

WHEREAS, YELLOW BROOK PROPERTY, CO., LLC, hereinafter the Applicant, has proposed the development of property located at 132 Bingham Avenue, in the Borough of Rumson, County of Monmouth and State of New Jersey, which property is further known and designated as Block 94, Lot 5 on the Tax Map of the Borough of Rumson; and

WHEREAS, the Applicant has applied to the Planning Board of the Borough of Rumson for preliminary and final major site plan approval with Variances and design standard waivers to construct a multi-family residential housing development consisting of eighteen (18) dwelling units located in nine duplex buildings with associated site improvements including a private cul-de-sac roadway, paver driveways, paver sidewalk, lighting, landscaping, sanitary sewer and a drainage system consisting of two underground infiltration basins connecting to the existing system on Bingham Avenue. The application requires the following Variances and design standard waivers:

1. Setback between garage façade of 15.9 ft. where 25 ft. is required for building number 7. (Variance required)
2. Setback between garage façade and sidewalk of 17.6 ft. where 25 ft. is required for building number 8. (Variance required)
3. Use of 2 3/8 in. concrete pavers with 6 in. reinforced concrete base instead of 3.5 in. asphalt base with 1.5 in. asphalt surface course. (design waiver)

4. No side sidewalk proposed along Bingham Avenue where sidewalk is required. (design waiver)

5. Use of ADS HDPE drainage pipes where reinforced concrete pipes (RCPN) are required. (design waiver)

6. Concrete curb throughout site. (design waiver)

The Foregoing are contrary to the provisions of Sections 22-5.21.G.8, Section 22-9.3 Exhibit 9-10, Section 22-5.H.2 and Section 22-9.3.f.3(e) respectively of Chapter 22 Borough of Rumson Development Regulations; and

WHEREAS, the subject property is located in the BA Bingham Avenue Housing Zone District which permits Multi-Family Residential Housing Development in duplex buildings and the proposed use is a permitted use in the zone; and

WHEREAS, the Applicant appeared before the Planning Board of the Borough of Rumson on June 7, 2021 and July 12, 2021 respectively, due notice of said meetings having been given in accordance with New Jersey Statutes, the Open Public Meetings Act and the Municipal Land Use Law and a quorum of the Planning Board being present the application was heard; and

WHEREAS, the Applicant's witnesses were sworn and the Planning Board having heard the testimony of the Applicant's witnesses and having examined the Exhibits presented by the Applicant and having considered all of the evidence presented in favor of or in opposition to the application, the Planning Board has made the following findings of fact:

1. The Planning Board has received and reviewed the following documents, Exhibits and reports:

1.1 Completeness Review and Fee Determination of T&M Associates dated March 19, 2021, marked as Exhibit A-1 in evidence.

1.2 Monmouth County Planning Board Review, dated March 8, 2021 with information request, marked as Exhibit A-2 in evidence.

1.3 Freehold Soil Conservation District Approval, dated March 3, 2021, marked as Exhibit A-3 in evidence.

1.4 Application of Yellow Brook Property, Co., LLC, dated February 3, 2021, marked as Exhibit A-4 in evidence.

1.5 Monmouth County Planning Board Application dated February 3, 2021, marked as Exhibit A-5 in evidence.

1.6 Freehold Conservation District Application, dated February 3, 2021, marked as Exhibit A-6 in evidence.

1.7 Traffic and Parking Assessment prepared by Miskovich Consulting Engineers, dated February 3, 2021, marked as Exhibit A-7 in evidence.

1.8 Elevation and Floor Plan Drawings, marked as Exhibit A-8 in evidence.

1.9 Preliminary and Final Site Plan prepared by French and Parello Associates, dated January 29, 2021, marked as Exhibit A-9 in evidence.

1.10 Environmental Impacts Statement prepared by French and Parrello Associates, dated January 29, 2021, marked as Exhibit A-10 in evidence.

1.11 Stormwater Management Report prepared by French and Parrello Associates, dated January 29, 2021, marked as Exhibit A-11 in evidence.

1.12 Operations and Maintenance Manual prepared by French and Parrello Associates, dated January 2021, marked as Exhibit A-12 in evidence.

1.13 Topographic Survey prepared by French and Parrello Associates, dated July 11, 2019, marked as Exhibit A-13 in evidence.

1.14 First Engineering Review of T&M Associates, dated May 27, 2021, marked as Exhibit A-14 in evidence.

1.15 Model Home and Construction/Sales Trailer Layout Plan, prepared by French and Parrello Associates, dated May 17, 2021, marked as Exhibit A-15 in evidence.

1.16 Aerial Photograph of subject property prepared by French and Parrello Associates, marked as Exhibit A-16 in evidence.

1.17 Color Rendered Landscape Plan Sheet 16 of 24, dated January 29, 2021, marked as Exhibit A-17 in evidence.

1.18 Landscape Buffer Section, dated January 9, 2020, marked as Exhibit A-18 in evidence.

1.19 Landscape Buffer Section regarding Units 6 & 7, prepared by French and Parrello Associates, dated June 7, 2021 showing compliance with Ordinance provisions, marked as Exhibit A-19 in evidence.

1.20 Landscape Buffer Section regarding Units 7 & 8, prepared by French and Parrello Associates, dated June 7, 2021 showing compliance with Ordinance provisions, marked as Exhibit A-20 in evidence.

1.21 Landscape Buffer Section for Units 21 & 22, prepared by French and Parrello Associates, dated June 7, 2021, showing compliance with Ordinance, marked as Exhibit A-21 in evidence.

1.22 Enlarged Landscape Plan dated January 29, 2021, revised May 27, 2021, prepared by French and Parrello Associates, marked as Exhibit A-22 in evidence.

1.23 Enlarged Landscape Plan dated January 29, 2021, revised May 27, 2021, prepared by French and Parrello Associates, marked as Exhibit A-23 in evidence.

1.24 Second Engineering Review of T&M Associates, dated July 1, 2021, marked as Exhibit A-24 in evidence.

1.25 Preliminary and Final Major Site Plan, prepared by French and Parrillo dated January 29, 2021, revised June 22, 2021, marked as Exhibit A-25 in evidence.

1.26 Stormwater Management Power Point Exhibit consisting of six (6) sheets, marked as Exhibit A-26 in evidence.

1.27 Proposed Entrance Fence Elevation Drawing, prepared by French and Parrello Associates, dated July 12, 2021, marked as Exhibit A-27 in evidence.

1.28 Overall Colorized Landscape Plan, prepared by French and Parrello Associates, dated January 29, 2021, revised June 22, 2021, marked as Exhibit A-28 in evidence.

1.29 3 Sample Boards with Building Materials including Timberline HD Roof, JH Hardy Shakes and plank siding in Veneer Cody-Grey, marked as Exhibit A-29 in evidence.

1.30 Photograph taken June 2021 of driveway of adjacent property at 138 Bingham Avenue, marked as Exhibit BC-1 in evidence.

1.31 Photograph taken June 2021 of driveway for 132 Bingham Avenue, marked as Exhibit BC-2 in evidence.

1.32 Photograph taken June 2021 of 138 Bingham Avenue, marked as Exhibit BC-3 in evidence.

2. The premises in question are located at 132 Bingham Avenue, in the Borough of Rumson, County of Monmouth and State of New Jersey, which property is further known and designated as block 94 lot 5 on the tax map of the Borough of Rumson.

3. The Planning Board conducted a Completeness Review at the commencement of the hearing of the application and, based upon the engineer's comments and recommendations, has determined that all relevant completeness items have been satisfied and any outstanding items are not necessary in order to review and decide the application. With regard to items in the Engineer's review letter where the Engineer indicated no objection but required compliance in addition to approval, compliance with those items are a condition of this approval.

4. The subject property is located in the BA Bingham Avenue Housing Zone which permits the development of Multi-Family Residential Housing in duplex buildings. The proposed development is a permitted use in the zone.

5. The subject property has approximate dimensions of 200.00 ft. x 479.16 ft. x 200.09 ft. x 325.00 ft. x 150.05 ft. x 250.17 ft. x 803.72 ft. and is an "L" shaped parcel with a lot area of 223,405 square feet (5.129 acres). The subject property is presently developed with a 2-story residential dwelling with covered porch, patio, paved driveway, pool, pool house, tennis court, dog kennel, shed, stairs, various fences and landscaping walls. The Applicant proposes to demolish and remove all of those existing features.

6. The Applicant has applied for preliminary and final major site plan approval with the previous referenced Variances and Waivers to construct a Multi-Family Residential Housing Development consisting of eighteen (18) dwelling units located in nine (9) duplex buildings. In addition to the proposed dwellings the Applicant proposes site improvements including, but not limited to, a private cul-de-sac roadway, paver driveways, paver sidewalk, curb, lighting, landscaping, sanitary sewer and a drainage system consisting of two (2) infiltration basins connecting to the existing system on Bingham Avenue.

7. Kendra Lelie, the Boroughs professional planning consultant, provided background testimony that the BA Bingham Avenue Housing Zone District is a result of a settlement agreement in Mount Laurel litigation between the Borough of Rumson and the Applicant. As part of the Boroughs affordable housing compliance requirements, the Borough of Rumson adopted Ordinance 20-015 on December 15, 2020 to re-zone the subject property in order to permit this Multi-Family development. The Applicant is providing an "in lieu" contribution to the Borough with affordable units to be built on Carton Street which will satisfy a portion of the Borough of Rumson's obligation to provide its fair share of the regional need for low and moderate-income housing. The Applicant was

represented by Craig Gianetti, Esq. who presented the testimony of Brian Decina, a licensed Engineer of the State of New Jersey for over 20 years, Paul Grabowski, a licensed Architect in the State of New Jersey for 25 years, Frank Miskovich, a licensed Professional Engineer in the State of New Jersey with 50 years of experience in traffic engineering and Art Bernard, a licensed Professional Planner in the State of New Jersey with 35 years of experience. Mr. Decina testified that there are no environmental constraints with the subject property and that the proposed structures comply with all of the bulk setback requirements with the exception of two (2) minor deviations for the separation between the garages of Units 7 and 8 from the sidewalk. These are minor deviations necessitated by the configuration of the cul-de-sac. He noted that although this deviation is on one side of each building and that the other side of each building provides a significantly greater depth that complies with the Ordinance requirement. He testified that these minor deviations are necessary in order to provide adequate turning movements for emergency and firefighting vehicles.

8. Mr. Bernard testified as to the planning aspects of the requested Variances. He noted that he had reviewed the Settlement Agreement, the Borough Ordinance, the Master Plan, provisions of the Municipal Land Use Law and had visited the site before arriving at his opinions. He testified that the grant of Variance relief in this case will allow the settlement to proceed with the Carton Street site being used to build a significant number of affordable housing units providing 25 total affordable housing credits for the Borough. He noted that the Statute and New Jersey Administrative Code Regulations encourage the grant of reasonable Variances in order to facilitate the construction of affordable housing and to avoid unnecessary costs in connection with same. He noted that the average distance between the garage on buildings 7 and 8 and the sidewalk meets the requirement of the Ordinance. However, the curvature of the cul-de-sac creates the need for Variance relief. He noted that there are two-car garages providing adequate onsite parking for these units. He opined that the Variances

can be granted pursuant to N.J.S.A. 40:55D-2 including subsection (a) as this will encourage municipal action to guide the appropriate use and development of lands within the state and promote the public health, safety, morals and general welfare by providing needed affordable housing. He opined that it will also satisfy subsection (b) securing safety from fire, flood, panic or other natural man made disasters as this will provide an appropriately designed development in accordance with current standards. He also noted that the subsection (g) will also be promoted by providing sufficient space in an appropriate location for a variety of residential type uses to meet the needs of all New Jersey citizens. He opined that the grant of Variance relief here will promote the development of the affordable units on Carton Street which does promote the public health and welfare by providing affordable units needed by New Jersey citizens. Mr. Bernard opined that the benefits of this proposal promoting the purposes of the Municipal Land Use law justifies the relief requested. He noted that the Settlement Agreement, coupled with the recently adopted Housing Element and Fair Share Plan and re-zoning the subject property demonstrates that the Borough and the Planning Board have found this to be a good proposal. He also noted that the Variances are consistent with the Exhibit attached to the Settlement Agreement and allows development consistent with it. The Planning Board agrees and finds that Mr. Bernard's testimony supports the grant of the Variance relief on the basis of a Planning Variance under the statute. N.J.S.A .40:55 D-70.c.(2) provides that where in an application or appeal relating to a specific piece of property, the purposes of this act... "would be advanced by a deviation from the Zoning Ordinance requirements and the benefits of the deviation would substantially outweigh any detriment grant a Variance to allow departure from regulations...". The Planning Board finds that the Applicant has satisfied the criteria and that the purposes of the Municipal Land Use Law and the benefits to be received from granting these minor deviations substantially outweigh any detriment and promotes the satisfaction of the affordable housing obligations of the community.

9. In addition to the foregoing, Mr. Bernard testified that the negative criteria for the grant of Variance relief are also satisfied. More particularly, he opined that the grant of the Variance relief will not result in any substantial detriment to the public good. The proposed development is substantially consistent with the Zone Ordinance, with the Settlement Agreement and the Exhibit attached to the Settlement Agreement and will provide for appropriate development of this neighborhood. There will be adequate landscaping to screen the development from neighboring properties and an attractive entry from Bingham Avenue.

10. Mr. Bernard also testified that the grant of the requested Variance relief will not result in any substantial impairment to the Zone Plan or Zoning Ordinance. He noted that the use is a permitted use in the zone. He further noted that the proposed development does not exceed the permitted density under the Zoning Ordinance, Thus, there is no substantial negative impact as the proposed development is consistent with the Settlement Agreement, the Master Plan and the Zoning Ordinance. These minor deviations will not result in any substantial negative impact. Moreover, the zone plan is promoted by this development which will assist the Borough in meeting its affordable housing obligation. The Planning Board agrees. As a result of all of the foregoing the Planning Board finds that the Applicant has satisfied the positive and negative criteria for the grant of the requested Variance relief and that the Variances can and should be granted at this time.

11. Mr. Decina also testified as to the stormwater management for the proposed improvements, he noted that this will be considered a “major development” and that the plan has been designed to comply with the quality, quantity and recharge requirements of the stormwater management regulations. He noted that the Applicant has provided the required twenty-five (25) foot perimeter buffer and opined that the proposal is substantial and consistent with the requirements of the Ordinance. He further agreed to work with Board

professionals at the time of construction to supplement and ensure that there are no significant gaps in the plantings.

12. Mr. Grabowski testified as to the architectural elements of the proposed buildings and that they are consistent with the concept plan submitted with the Ordinance. He reviewed the materials to be used in their construction. The Planning Board agrees that the architectural plans provided are consistent with the Ordinance.

13. Mr. Miscovich testified with respect to traffic and parking requirements. He noted that the proposed duplex units are a very low traffic generator and that he prepared a traffic report indicating that the amount of traffic generated by the proposed development will not have adverse impacts on the adjacent street system. He further addressed parking and noted that the Applicant is substantially exceeding what is required by the Residential Site Improvement Standards (RSIS) and therefore complies fully with those requirements. He also noted that the road, cartway and sidewalks will all exceed RSIS requirements and that there will be no significant adverse impacts for the level of service for turning movements at the intersection of the development or nearby intersections. The Planning Board acknowledges that several interested citizens expressed concern that this development will add traffic to the road system and adversely impact a nearby intersections. However, those intersections are County roadways and under County Planning Board jurisdiction. Moreover, the Planning Board is satisfied from Mr. Miskovich's report and testimony that this development will not add excessive traffic to the road system or create unacceptable levels of service at nearby intersections.

14. The Planning Board notes that the Applicant has requested four standard design waivers. The first of those is for the Applicant to provide a more decorative 2 – 3/8 in. concrete pavers with a 6 in. reinforced concrete base in lieu of asphalt at the site entrance. The Planning Board finds that there are no

engineering objections to the use of the materials proposed by the Applicant rather than asphalt set forth in the Ordinance. The Planning Board further finds that a more decorative and more appealing entrance will result from using the alternative materials. Thus, the Planning Board finds this waiver may be granted as it is reasonable and within the general purpose and intent of the provisions for site plan review.

15. The Planning Board further finds that the design waiver for not providing sidewalks along Bingham Avenue is appropriate under the circumstances. The proposed sidewalk would not tie into another sidewalk system along Bingham Avenue and would be of little functional value. Therefore, the Planning Board finds that the design standard waiver is appropriate under the circumstances of this case. In addition, the Planning Board finds that the design waiver to permit the proposed ADSN pipes within the development is appropriate under the circumstances. The Planning Board notes that all pipes within the roadway have been revised to reinforce concrete pipes (RCP) and the design waiver will apply only to the pipes within the actual properties and will be adequate for those purposes. Finally, the Applicant will be using concrete curbing throughout the site. The Planning Board engineer had no objection to those materials and the Planning Board finds that it is reasonable and within the general purpose and intent of the provisions for site plan review.

16. A number of concerns were raised by members of the Planning Board as well as members of the public during the course of the hearings. The Planning Board notes that the Applicant has made revisions to the plans in order to address those concerns to the greatest extent possible. The Applicant provided additional crosswalks on internal walkways as recommended by the Board's professionals, increased the length of parking stalls in order to comply with RSIS requirements, provided additional landscaping around the perimeter of the property and revised with evergreen planting along the parallel parking

spaces to mirror the Ordinance Exhibit. In addition, the entrance was revised to provide a fence and pillars on either side with a cherry laurel front hedge.

17. During the course of the hearing, the Applicant agreed to comply with all of the technical requirements and recommendations set forth in the July 1, 2021 report of the Planning Board's engineer marked as Exhibit A-24 in evidence. Such compliance is a condition of this approval. The Applicant further agreed to comply with Ordinance 21-005 D Subsection G, 17 A and 17 D with respect to landscaping. The Applicant further agreed that the model home will be constructed on the first lot in the development and that the construction/sale trailer will be placed interior to the site at lot 2 in order to provide for a more pleasant aesthetic appearance along Bingham Avenue during the construction phase.

18. The Applicant agreed as a condition of approval to provide Bingham Avenue sewer capacity calculations to the Borough Engineer demonstrating to his satisfaction that the system can accommodate the flow from the development. The Applicant also agreed as a condition of approval to comply with Ms. Lelie's recommendation that trees be added to replace trees that were supposed to have been saved and that have to be removed in order to accommodate the stormwater system. The Applicant also agreed to identify trees at the cul-de-sac and the Applicant further agreed to replace ash trees in the cul-de-sac with trees that are an appropriate species as recommended by the Borough Professionals, The Applicant also agreed to enhance stations 6 and 7 with landscape upon consultation with the Borough professionals and their recommendations.

The Planning Board notes that Exhibit A-29 was produced by the Applicant's architect showing the types of materials and colors that will be utilized in this development. The architect has agreed to provide the material boards to

the Board professionals to confirm their consistency with the Ordinance and Ordinance Exhibit.

19. The Applicant confirmed that the onsite sewer system will be maintained by a Homeowners Association and not by the municipality.

20. The Applicant further agreed to restrict the parking spaces along the roadway during months of inclement weather so that snow removal will not be interfered with.

21. The Applicant agreed to cooperate with the Borough along with consulting the Borough post office, emergency services, police and fire so that all units are properly identified for emergency purposes. The Applicant also agreed to consider using an appropriate name from Rumson history for the new street. Finally, the Applicant agreed to confirm compliance with regulations to all of the engineering regulations to ensure that there will be no negative impacts upon neighboring properties from a stormwater management perspective.

22. The Planning Board finds that the Applicant has submitted a site plan and such other information as is reasonably necessary to make an informed decision as to whether the requirements necessary for site plan approval have been met. The Planning Board further finds that the detailed drawing specifications and estimates of the application conform to the standards established by Ordinance for final approval and that, as a result of the foregoing, preliminary and final major site plan approval can and should be granted at this time. Such approval is subject to all of the conditions referenced previously in this resolution and the additional conditions set forth in conclusion of this resolution.

23. The Planning Board further finds that all property owners within 200 ft. of the premises in question were given proper Notice of the Hearing of this

Application and were provided with an opportunity to present evidence in support of or in opposition to the Application.

NOW THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Rumson on this 9th day of August 2021, that the Application of **YELLOW BROOK PROPERTY CO., LLC.**, be and is hereby approved, which approval shall be subject to compliance with the following terms and conditions.

GENERAL CONDITIONS –

- 1) This approval is subject to the accuracy and completeness of the submissions, statements, exhibits and other testimony filed with, or offered to, the Board in connection with this application, all of which are incorporated herein by reference and specifically relied upon by the Board in granting this approval. This condition shall be a continuing condition subsequent which shall be deemed satisfied unless and until the Board determines (on Notice to the Applicant) that a breach hereof has occurred.
- 2) In the event that any documents require execution in connection with the within approval, such documents will not be released until all of the conditions of this approval have been satisfied unless otherwise expressly noted.
- 3) No taxes or assessments for local improvements shall be due or delinquent on the subject property.
- 4) The Applicant shall pay to the municipality any and all sums outstanding for fees incurred by the municipality for services rendered by the municipality's professionals for review of the application for development, review and preparation of documents, inspections of

improvement and other purposes authorized by the Municipal Land Use Law. The Applicant shall provide such further escrow deposits with the municipality as are necessary to fund anticipated continuing municipal expenses for such professional services, if any, in connection with the Application for Development as may be authorized by the Municipal Land Use Law.

5) The Applicant shall furnish such Performance Guarantees, Temporary Certificate of Occupancy Guarantees, Safety and Stabilization Guarantees, Maintenance Guarantees, Inspection Fees and such other Guarantees or fees as may be required pursuant to the Municipal Land Use Law and the Ordinances of this Municipality for the purpose of assuring the installation and maintenance of on-tract/off-tract and private site improvements.

6) No site work shall be commenced or plans signed or released or any work performed with respect to this approval until such time as all conditions of the approval have been satisfied or otherwise waived by the Board.

7) Any and all notes, drawings or other information contained on any approved plans shall be conditions of this approval.

8) Nothing herein shall excuse compliance by the Applicant with any and all other requirements of this municipality or any other governmental entity. This approval is conditioned upon compliance by the Applicant with all Ordinances and Regulations of this Municipality.

9) In the event any de minimis exception has been granted from the Residential Site Improvement Standards Regulations in connection with this application, a copy of this resolution shall be sent to the New Jersey

Department of Community Affairs, Division of Codes and Standards, 101 South Board Street, CN 802, Trenton, New Jersey 08625-0802 within thirty (30) days of the date hereof. Said copy of this resolution shall be clearly marked on its face with the words "SITE IMPROVEMENT EXCEPTIONS".

10) In the event that the Applicant and the approving authority have agreed that exceeding a standard of the Residential Site Improvement Standards is desirable under the specific circumstances of the proposed development, such Agreement to Exceed RSIS Standards shall be placed, in writing, by the developer and transmitted forthwith to the New Jersey Department of Community Affairs, Division of Codes and Standards, 101 South Broad Street, CN 802, Trenton, New Jersey 08625-0802.

11) The Applicant shall comply with the contribution requirements of the Municipal Affordable Housing Fund as applicable to this application.

12) In the event that this Application involves a subdivision or site plan, such subdivision or site plan shall expire at the conclusion of the period of protection from zoning changes provided for in N.J.S.A. 40:55D-49 or 40:55D-52.a, as applicable, and in no event shall extend beyond the fifth anniversary of the date of adoption of this resolution.

13) In the event that this approval involves the approval of a subdivision, the Applicant shall provide to the Board Engineer and attorney for review and approval, deeds for each of the lots created and shall file such deeds simultaneously with the recording of any subdivision plat.

14) All special conditions shall be included as notes on the plans.

15) All general and special conditions set forth in this Resolution shall be placed as notes on the approved plans as a Resolution compliance requirement.

16) The Applicant shall comply with the requirements of the Municipal Ordinances with respect to its Affordable Housing obligation by either providing the required affordable housing on-site, providing affordable housing off-site or making a contribution of an Affordable Housing fee pursuant to the applicable Municipal Ordinances. This approval is subject to the Applicant paying all applicable fees, including any fee due and owing to the Municipality's Affordable Housing Trust Fund.

17) This Resolution does not constitute a permit for the construction of the approved improvements. The Applicant shall be responsible for obtaining any and all permits and approvals required **prior to** the commencement of **any** development activities including, but not limited to, N.J.D.O.T., N.J.D.E.P., Monmouth County Planning Board, Freehold Soil Conservation District, Regional and/or Municipal Utility Authority approval, in addition to any and all building and construction permits, required by the Municipality. All work performed shall be in accordance with, and shall not deviate from, the approved plans and all applicable Federal, State, County and Local laws, rules and regulations.

18) As an essential and non-severable condition of this approval, the Applicant shall comply with all Mount Laurel obligations and shall comply with the Municipality's approved Housing Element and Fair Share Plan including but not limited to, any associated implementing Ordinances.

19) The scope of the review of this application is necessarily limited to planning, zoning and land use review of the site as compared to the requirements of the Municipality. The grant of this approval and of any permit or approval in connection therewith shall not constitute a

representation, guarantee or warranty of any kind or nature by the Municipality or by any Municipal official or employee thereof with respect to the practicability or safety of any structure, use or other plan proposed and shall create no liability upon or cause of action against the Board, the Municipality or any officials or employees of the Municipality for any damage or injury that result from the construction of the improvements for which this Zoning approval is granted.

SPECIAL CONDITIONS –

1) The approvals granted herein are as follows:

a.) Preliminary and final major site plan approval pursuant to site plans prepared by French and Parrello Associates, dated January 29, 2021 revised June 22, 2021, marked as Exhibit A-5 in evidence as they may be revised in order to comply with the conditions of this resolution.

b.) Variance to permit distance between garage façade of building 7 and sidewalk of 15.9 feet where 25 feet is required.

c.) Variance to permit distance between garage façade of building 8 and sidewalk of 17.6 feet where 25 feet is required.

d.) Design standard waiver to permit 2 3/8 inch concrete pavers and a 6 inch reinforcement concrete base in lieu of asphalt at the site entrance.

e.) Design waiver from placement sidewalks along Bingham Avenue.

f.) Design waiver to permit the use of ABS pipe within the duplex building properties.

g.) Design waiver to permit the use of concrete curb throughout the site.

2) The Applicant shall comply with the technical requirements and recommendations set forth in the report of the Planning Board Engineer dated July 1, 2021, marked as Exhibit A-24 in evidence including but not limited to paragraphs 1.3, 2.5, 2.9, 2.11, 2.12, 2.13, 2.15, 2.20, 2.21, 2.22, 3.5, 3.12, 3.14, 3.17, 3.20, 3.26, 3.31, 3.32, 3.33, 4.1, 4.2, 4.3, 4.8, 4.9, 4.10, 4.11, 5.2, 5.5, 5.6, 6.2, 6.3, 6.5, 6.8, 6.10, 6.12, 6.13, 7.1, 7.2, 7.3, 7.5, 7.6, 7.7.

3) The Applicant shall comply with the other conditions of approval set forth previously in the body of this resolution.

BE IT FURTHER RESOLVED that nothing herein shall excuse compliance by the Applicant with any and all other requirements of this Municipality or any other governmental entity.

BE IT FURTHER RESOLVED that a written copy of this Resolution certified by the Secretary of the Planning Board to be a true copy be forwarded to the Applicant, the Code Enforcement Official of the Borough of Rumson and the Construction Code Official of the Borough of Rumson. A written copy of the certified Resolution shall also be filed in the office of the Administrative Officer of the Municipality, which copy shall be made available to any interested party and available for public inspection during normal business hours.

BE IT FURTHER RESOLVED that a proper notice of this Decision be published once in the official newspaper of the Municipality or in a newspaper in general circulation within the Borough.

OFFERED BY:

SECONDED BY:

ROLL CALL:

YES:

NO:

ABSTAIN:

ABSENT:

**Chairperson, Planning Board
Borough of Rumson**

I certify that the above is a true and exact copy of the Resolution passed by the Planning Board of the Borough of Rumson at its meeting held on August 9, 2021.

**Secretary, Planning Board
Borough of Rumson**