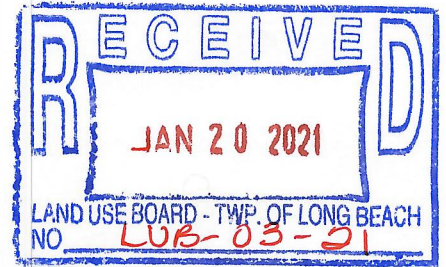


LONG BEACH TOWNSHIP
6805 LONG BEACH BOULEVARD
BRANT BEACH, NEW JERSEY 08008
(609) 361-1000



LAND USE DEVELOPMENT APPLICATION
(TO BE COMPLETED BY TOWNSHIP STAFF ONLY)

Date Filed 1/20/2021 Docket No. LUB-03-2021
Application Fees _____ Escrow Deposit _____
Scheduled for: Review for Completeness Sent to Hearing 2/10/2021
OLA/KQ.

1. SUBJECT PROPERTY (TO BE COMPLETED BY APPLICANT)

Location: 1412 Long Beach Boulevard,
Tax Map: Sheet #8 Block 4.12 Lot(s) 6

Dimensions Frontage 200' on Long Beach Blvd x 121.97 on 14th Street x 200.15 x 114.17 on 15th Street
Total Area 23,614 square feet-

Zoning District **C- Commercial Zone**

2. APPLICANT

Name Elm H Holdings, LLC, a New Jersey Limited Liability Company

Address 490 Route 33 West - Unit #1
Millstone, New Jersey 08087

Telephone Number: Home: Local:

Work: 917-841-6648 FAX:

Applicant is: New Jersey Limited Liability Company

Other (Please Specify)

Social Security Number / Federal ID Number: See W-9 submitted herewith

3. DISCLOSURE STATEMENT

Pursuant to N.J.S. 40:55D-48.1, the names and addresses of all persons owning 10% of the stock in a corporate applicant or 10% interest in any partnership applicant must be disclosed. In accordance with N.J.S. 40:55D-48.2, that disclosure requirement applies to any corporation or partnership which owns more than 10% interest in the applicant followed up the chain of ownership until the names and addresses of the non-corporate stockholders and partners exceeding the 10% ownership criterion have been disclosed (attach pages as necessary to fully comply.)

Name Sean Maxwell Interest 33 1/3%
Address 4 Constellation Way, Jersey City, NJ 07305

Name Brian Shapson Interest 33 1/3 %
Address 80 Leesville Road, Jackson, NJ 08527

Name Christopher J. Davies Interest 33 1/3 %
Address 31 White Oak Lane, Little Egg Harbor, NJ 08087

4. If the Owner (s) is other than the applicant, provide the following information on the Owner (s):

Owner's Names: Elm H Holdings, LLC- same as applicant

Address:

City/State:

Telephone Number:

Home:

Work:

Local:

Relationship of the applicant to the property in question:

Owner: Lessee Purchaser under Contract Other

5. PROPERTY INFORMATION:

Deed restrictions, covenants, easements, rights of way, association by-laws or other dedications existing and proposed must be submitted for review.

Site plan and / or conditional use applicants: N/A

Proposed for: Expanded Area Alteration

Expansion of Structure Change of Use Sign

Other (please specify)

Has this property been the subject of any prior application (s) to the Planning Board or Zoning Board of Adjustment: Yes No . If so, please attach the date (s), the relief sought, the disposition of the case and a copy of the resolution (s). Prior site plan and variance approvals for Garden Center and two story mixed use building LUB 48-03 January 2004 preliminary and May 2004 final-Resolutions attached.

Is the subject property located on:

A County Road: Yes A State Road: No ; Within 200 feet of a municipal boundary: No .

Present use of the premises: Parking lot together with Mixed Use Building, office/retail first floor; two (2) two (2) bedroom apartments on second floor.

6. Applicant's Attorney **Stuart D. Snyder, Esq.**

Address **2100 Long Beach Boulevard, Surf City, New Jersey**

Telephone Number **(609) 494-7676** Fax Number **(609) 494-8499**

7. Applicant's Engineer/Surveyor **Horn, Tyson & Yoder, Inc.**

James D. Brzozowski, PE, PP; Robert G. deBlois, PLS

Address **8510 Long Beach Boulevard, Long Beach Township, New Jersey**

Telephone Number **609-492-5050** Fax Number:

8. Applicant's Planning Consultant: **TBD**

Address

Telephone Number Fax Number:

9. Applicant's Architect

Address:

Phone: Fax:

10. List any other Expert who will submit a report or who will testify for the Applicant: (Attach additional sheets as may be necessary)

Name: To be provided if any other experts or consultants are retained.

Field of Expertise

Address

Telephone Number Fax Number

11. **APPLICATION REPRESENTS A REQUEST FOR THE FOLLOWING:
SUBDIVISION:**

- Minor Subdivision Approval
- Subdivision Approval (Preliminary)
- Subdivision Approval (Final)

Number of lots to be created Two (2) Number of proposed dwelling units 0

Area and dimensions of each proposed lot: New Lot 6.01 106.46' x 121.97 feet irreg. 19,508.1 square feet;
New Lot 6.02 93.64 x 114.1 feet irreg. 10,111.9 square feet.

SITE PLAN:- if required by Board as amendment to prior site plan approval

- Minor Site Plan Approval
- Preliminary Site Plan Approval (Phases (if applicable))
- Final Site Plan Approval (Phases (if applicable))
- Amendment or Revision to an Approved Site Plan
- Area to be disturbed (square feet) N/A

Total number of proposed dwelling units: 0

Request for Waiver from Site Plan Review and Approval.

Reason for request: Property is fully developed, change of property lines only.

Informal Review

Appeal decision of an Administrative Officer [N.J.S. 40:55D-70a]

Map or Ordinance Interpretation or Special Question [N.J.S. 40:55D-70b]

X Variance Relief (hardship) [N.J.S. 40:55D-70c (1)]

X Variance Relief (substantial benefit) [N.J.S. 40:55D (2)]

Variance Relief (use) [N.J.S. 40:55D-70d]

Conditional Use Approval [N.J.S. 40:55D-67]

Direct issuance of a permit for a structure in bed of a mapped street, public drainage way, or flood control basin [N.J.S. 40:55D-34]

Direct issuance of a permit for a lot lacking street frontage [N.J.S. 40:55-35]

12. Section (s) of Ordinance from which a variance is requested: as may be required by the Board after review. Section 205:33 B (3) impervious coverage on New Lot 6.01 94.67% (existing condition) where 75% is permitted
13. Waivers Requested of Development Standards and / or Submission Requirements: as may be required by the Board after review.
14. Attach a copy of the proposed Notice to appear in the official newspaper of the municipality and to be mailed to the owners of all real property, as shown on the current tax duplicate, located within the State and within 200 feet in all directions of the property which is the subject of this application. The Notice must specify the sections of the Ordinance from which relief is sought, if applicable.

The publication and the service on the affected owners must be accomplished at least 10 days prior to the date scheduled by the Administrative Officer for the hearing.

An affidavit of service on all property owners and a proof of publication must be filed before the application will be complete and the hearing can proceed.

15. Explain in detail the exact nature of the application and the changes to be made at the premises, including the proposed use of the premises: (attach pages as needed)

The applicant seeks to subdivide the property; the existing building, which is mixed use, two residential apartments on the second floor and a retail/office use on the first floor, will remain on New Lot 6.02, that lot, use and bulk requirements will conform. The parking for the Hand Store located across 14th Street to the South containing 32 parking spaces will be maintained on New Lot 6.01; a variance from impervious coverage requirement of 75% is requested for the 94.6% impervious coverage that exists. There are not any changes proposed to the building or the properties, but for the change of lot lines and subdivision.

16. Is public water line available? yes

17. Is public sanitary sewer available ? yes
18. Does the application propose any lighting? None other than currently exist at the site.
19. Have any proposed new lots been reviewed with Tax Assessor to determine appropriate lot and block number? Pending
20. Are any off-tract improvements required or proposed? No
21. Is the subdivision to be filed by Deed or Plat ? Plat
22. What form of security does the applicant propose to provide as performance and maintenance guarantees ? Cash or Letter of Credit
23. Other approvals which may be required and date plans submitted:

	Yes	No	Date Plans Submitted
Long Beach Township Fire Prevention Bureau		x	
Long Beach Township Water & Sewer Dept.	x		
Long Beach Township Public Works Dept.	x		
Long Beach Island Health Dept.			
Ocean County Planning Board	x		
Ocean County Soil Conservation District (LBT)	x		
N.J. Dept. of Environmental Protection		x	
Sanitary Sewer Connection Permit	x		
Sewer Extension Permit		x	
Waterfront Development Permit		x	
Wetlands Permit		x	
Received			
Tidal Wetlands Permit			
FEMA		x	
N.J. Department of Transportation		x	
Other			
Other			

24. Certification from the Tax Collector that all taxes due on the subject property have been paid.
25. List of Maps, Reports and other materials accompanying the application (attach additional pages as required for complete listing):

The documentation must be received by the Board Secretary at least twenty-one (21) days prior to the meeting at which the application is to be considered, or as otherwise required in the Land Development Ordinance. A list of the professional consultants is attached to the application form.

Quantity	Description of Item
18 copies	Land Use Development Application
18 copies	Minor Subdivision Plan prepared by Horn, Tyson & Yoder, Inc.

26. The Applicant hereby requests that copies of the reports of the professional staff reviewing the application be provided to the following of the applicant's professionals:
Specify which reports are requested for each of the applicant's professionals or whether all reports should be submitted to the professional listed.

<u>Applicant's Professional</u>	<u>Reports Requested</u>
---------------------------------	--------------------------

Attorney
Engineer
Architect
Planner

All Reports
All Reports

CERTIFICATIONS

27. I certify that the foregoing statements and the materials submitted are true, and waive all applicable time limits until the first public hearing of this application. I further certify that I am the individual applicant or that I am an Officer of the corporate applicant and that I am authorized to sign the application for the corporation or that I am a general partner of the partnership applicant. (If the applicant is a corporation, this must be signed by an authorized corporate officer. If the applicant is a partnership, this must be signed by a general partner.)

January 19, 2021

ELM H HOLDINGS, LLC
By: 
Sean Maxwell, Applicant

28. I, the Developer/Applicant understand that a sum, to be determined by the Administrative Officer, will be deposited in an Escrow Account, in accordance with the Ordinances of the Township of Long Beach. I further understand that the escrow account is established to cover the cost of professional services including engineering, planning, legal and / or other expenses associated with the review of the submitted materials. Sums not utilized in the review process shall be returned. If additional sums are deemed necessary, I understand that I will be notified of the required additional amount and shall add that sum to the escrow account within fifteen (15) days. I, the Developer / Applicant, as signed below, acknowledge familiarity with the procedures set forth in the Township of Long Beach Land Development Ordinance for submittals and required action and agree to be bound by it.

January 19, 2021

Elm H Holdings, LLC
By: 
Sean Maxwell, Applicant

TOWNSHIP OF LONG BEACH PROFESSIONAL CONSULTANTS

Engineer

Frank J. Little, Jr.
Owen, Little & Associates
443 Atlantic City Blvd.
Beachwood, NJ 08722

(732) 244-1090
FAX (732) 341-3412

Planning Board Attorney

Kevin S. Quinlan
207 West Main Street
Tuckerton, NJ 08087

PHONE: 609-296-6400
FAX: 609-296-7237

Affidavit of Ownership

Elm H Holdings, LLC, the owner of the lands and premises known and designated Lot 6 Block 4.12 Long Beach Township, Ocean County, New Jersey having a street address of 1412 Long Beach Boulevard, Long Beach Township, New Jersey 08008, certify as follows:

1. I am the Fee Title Owner of the aforementioned lands and premises, and
2. I hereby consent and specifically authorize Stuart D. Snyder, Esq. to file this application for Subdivision and any other required approvals before the Long Beach Township Land Use Board and the Ocean County Planning Board, and Long Beach Township/Ocean County Soils Conservation District.

Sworn to and subscribed before me
this 19 day of January, 2021



Notary Public

STUART D. SNYDER
ATTORNEY AT LAW
OF NEW JERSEY



Sean Maxwell, Member

STUART D. SNYDER

Attorney at Law
2100 Long Beach Blvd.
Surf City, NJ 08008
609-494-7676
FAX 609-494-8499

**PUBLIC NOTICE
LONG BEACH TOWNSHIP LAND USE BOARD**

Public Notice is hereby given in accordance with the Zoning and Land Development Ordinances of the Township of Long Beach, in the County of Ocean, and the provisions of the Municipal Land Use Law that Elm H Holdings, LLC has applied to the Land Use Board for Minor Subdivision of premises known as 1412 Long Beach Boulevard, Lot 6 Block 4.12 Long Beach Township, Ocean County, New Jersey, which property has dimensions of 200' x 121.97' feet irregular; into two (2) lots; proposed Lot 6.01 with dimensions of 106.46' x 121.97 feet irregular to remain a parking lot associated with 1300 Long Beach Boulevard, commonly known as the Hand Store; and proposed Lot 6.02 with dimensions of 93.64 x 114.1 feet irregular, which lot is improved with a two story mixed use building, containing office/retail on the first floor and two (2) apartments on the second floor. Applicant will also request variance relief from the 75% impervious coverage requirement set forth in Ordinance 205:33 B (3), to permit the existing condition to remain, 94.67% impervious coverage.

The applicants will also request any and all variances and waivers that may be required by the Board.

This matter is now Docket No. LUB-_____ on the Clerk's Docket and a public hearing has been ordered for _____ at 7:00 PM to be conducted virtually utilizing the Zoom Platform, at which time you may appear personally or by agent or attorney and present any objections which you may have to the granting of this application. All documents relating to this application, including plans setting forth setbacks and building locations, are on file at the Land Use Board Office 6805 Long Beach Boulevard, Brant Beach, New Jersey 08008 and may be inspected by the public during normal business hours at the office of the Secretary of the Board.

To Join the Zoom Meeting: TO BE INSERTED

If you have any questions pertaining to access to the meeting please contact Jackie Fife, the Board Secretary at 609.361.6653 on Monday through Friday between the hours of 9:00 AM and 4:00 PM.

Very truly yours,

Stuart D. Snyder

FILE

Date *January 8, 2004*

LONG BEACH TOWNSHIP LAND USE BOARD
RESOLUTION OF MEMORIALIZATION

WHEREAS, application has been made to the Long Beach Township Land Use Board by JWT STORES I, INC., T/A HAND STORES, which premises are owned by J. W. Turner Properties, Inc., a New Jersey Corporation with offices located at 2507 Long Beach Boulevard, Ship Bottom, NJ, and are known and designated as Lots 6, 7, 8, & 9 in Block 4.12 on the Official Tax Map of the Township of Long Beach, which lands and premises are located on Long Beach Boulevard between 14th and 15th Streets, North Beach Haven, Long Beach Township, New Jersey for special reasons and bulk variances together with Preliminary Site Plan Approval, so as to permit the construction of a two story building on lots 8 & 9 to be utilized as a garden center and retail shop on the first floor and two residential apartments on the second floor; and

WHEREAS, the jurisdictional requirements of N.J.S.A. 40:55D-12 have been satisfied in that notice of this application has been given to all property owners within two hundred (200') feet of the property in question and notice of this application has been duly published in the Beach Haven Times, the official newspaper of the Township, all as required by law;

WHEREAS, the Long Beach Township Land Use Board has reviewed the report dated November 26, 2003, prepared by Frank J. Little, Jr., P.E., P.P., C.M.E, the Long Beach Township Engineer, and accepts the said report and incorporates the facts contained therein by reference herein; and

WHEREAS, the Long Beach Township Land Use Board, after carefully considering the application, plans, exhibits and testimony presented by the applicants, as well as the representations of the applicants' attorney, Richard P. Visotcky, Esquire, and testimony from members of the public, at the hearing conducted on December 4, 2003, has made the following findings of fact:

1. The applicants are the lessees of the above described premises which are owned by J.W. Turner Properties, Inc., a New Jersey Corporation, with offices located at 2507 Long Beach Boulevard, Ship Bottom, New Jersey.

2. The above described premises, are located on Long Beach Boulevard between 14th & 15th Streets in North Beach Haven, New Jersey;

3. The premises in question are situated in the Commercial Zone and partially in the R-50 Residential zone, and lots 8 & 9 only, have the dimensions of 70 feet by 116 feet, for a total area of 8,086.90 square feet as to lots 8 & 9;

4. The Board incorporates herein by reference the facts set forth in the following plans:

a. Prepared by Horn, Tyson & Yoder, Inc., entitled, "Building Permit Plot Plan lots 8 & 9 Block 4.12 Tax Map Sheet #8 Long Beach Township Ocean County, New Jersey" dated 8/27/2003, bearing no revision date;

b. Prepared by Horn, Tyson & Yoder, Inc., entitled, "Major Site Plan Lots 6, 7, 8 & 9, Block 4.12 Tax Map Sheet #8 Long Beach Township Ocean County, New Jersey" dated 8/21/2001, bearing the latest revision date of 9/28/2001

c. Prepared by Rob Roth Architect, Inc., entitled, "Plan to Accompany an Application for Site Plan Hands stores Garden Center Lots 6, 7, 8 & 9 Block 4.12 Long Beach Township, Ocean County, " dated August, 2003, bearing no revision date.

5. The premises have been utilized as the parking lot for the Hands Store at least since the 1950's, and is located directly across the street;

6. The residential zone is approximately 21.97 feet at the widest point and 14.16 feet at the narrowest point with all of the remaining property is located in the Commercial zone;

7. The applicant proposes to remove the fenced in area and construct a two story building on lots 8 & 9 (located in the commercial zone) to be utilized as a garden center and retail shop on the first floor and 2 residential apartments on the second floor.

8. The applicant is seeking a special reasons variance for permission to use the rear portion of lots 6, 7, 8, and 9 for proposed parking even though they are located in the R50 General Residential Zone two residential units are not permitted in one structure;

9. In addition, the applicant is also seeking a special reasons variance because two residential units are not permitted in one structure;

10. The Garden Center is a permitted use in the Commercial zone and building, and proposed parking area and driveway will be exclusively located in the portion of the property situated in the commercial zone.

11. The applicant requires the following bulk variance relief:
- a. As to the front yard setback requirement of 15 feet to the retail area as only 5 feet is proposed;
 - b. As to the front yard setback to Long Beach Boulevard of 20 feet as only 12.50 feet is proposed;
 - c. As to the required number of parking spaces as 96 parking spaces are required and only 93 parking spaces are proposed;
 - d. As to the required vision clearance of a 25 foot site triangle on 14th Street where only 16.98 feet is proposed;

12. The Applicant testified that the existing garden center would be eliminated and replaced by the proposed new building;

13. The applicants testified that the proposed sign will meet all the requirements of the Township Ordinances, that they are not requesting any variances from those requirements, and that they will provide an appropriate sign detail for the Board's review and/or modification at the time of the final approval of the Site Plan;

14. The Board finds that the Garden Center will be a significant addition to the neighborhood, and it will result in a building which will be in compliance with current building and flood regulations;

15. The Garden Center is a needed business in the community and the use of the residential portion of the lot for off street parking will have minimal impact on the surrounding residential properties;

16. The existence of two residential and one commercial use on this site is an appropriate use of this tract of land which is located in a split zone and the use can be permitted without any detriment to the surrounding neighborhood;

17. The Board notes, that the proposed Garden Center will be adjacent to residential homes and, therefore, needs to provide controls over the odors which may emanate from the fertilizer and other materials stored on the site and from the lights being on after 11:00 pm;

18. The Board finds that Garden Center must set all of their exterior lights and lights around signs to shut off at 11:00 p.m. so as not to disturb the residential neighborhood;

19. The Board finds that Garden Center must restrict the sale and storage of all retail items to the covered areas or interior of the building to avoid impacting the aesthetics of the residential neighborhood;

20. The Board finds that Garden Center must install a 6 foot board on board fence around the premises and must install 6 foot plantings also to act as a buffer around the surrounding residential neighborhood;

21. The Board finds that number of parking spaces proposed is more than most businesses in Long Beach Township, and is more than sufficient for the type of business operated by the applicant;

22. The Board finds that the denial of the Preliminary Site Plan Approval , as requested, will deprive the applicant of a fair and reasonable use of the property without any corresponding benefit to the public good, the Board noting that a garden center is a necessity for the community and that there is no basis to terminate a use, which has operated on this site for more than fifty (50) years.

NOW, THEREFORE, BE IT RESOLVED, this 8th day of January, 2004, by the Long Beach Township Land Use Board, that:

1. That the applicants request for the special reasons variance to permit the construction of the Garden Center as proposed is hereby granted;

2. That the applicant's request for a special reasons variance to construct a building containing two (2) residential uses and one commercial unit is hereby granted;

3. That the applicants' request for a bulk variance as to the front yard setback to 15th Street be and the same is hereby granted for the reasons stated herein;

4. That the applicants' request for a bulk variance as to the front yard setback to Long Beach Boulevard be and the same is hereby granted for the reasons stated herein;

5. That the applicants' request for a bulk variance as to the required number of parking spaces be and the same is hereby granted for the reasons stated herein;

6. That the applicants' request for a bulk variance as to the vision clearance on the corner of 14th Street, be and the same is hereby granted for the reasons stated herein;

7. That the applicants' request for Preliminary Site Plan Approval be and the same is hereby approved in accordance with the following plans, as submitted by the applicants:

- a. Prepared by Horn, Tyson & Yoder, Inc., entitled, "Building Permit Plot Plan lots 8 & 9 Block 4.12 Tax Map Sheet #8 Long Beach Township Ocean County, New Jersey" dated 8/27/2003, bearing no revision date;

- b. Prepared by Horn, Tyson & Yoder, Inc., entitled, "Major Site Plan Lots 6, 7, 8 & 9, Block 4.12 Tax Map Sheet #8 Long Beach Township Ocean County, New Jersey" dated 8/21/2001, bearing the latest revision date of 9/28/2001
- c. Prepared by Rob Roth Architect, Inc., entitled, "Plan to Accompany an Application for Site Plan Hands stores Garden Center Lots 6, 7, 8 & 9 Block 4.12 Long Beach Township, Ocean County," dated August, 2003, bearing no revision date.

8. That the relief granted be subject to the following conditions:

(a) That the applicant install a 6 foot, board on board fence around the entire site which is annexed to the residential area;

(b) That the applicant provide that all outside lighting, parking lot lighting and lighting of signs be shut off by 11:00 p.m.;

(c) That the applicants provide a landscaping detail which includes 6'-8' high leyland cypress trees as a buffer, for the site at the time of Final Approval for the Board's approval;

(d) That the applicants restrict all storage and retail to only the covered areas and the interior of the Garden Center Building;

(e) That any Deeds or other documents required by these conditions be approved in advance of recording in the Ocean County Clerk's Office by the Attorney for Long Beach Township Land Use Board and the Township Engineer, and proof of recording with the County Clerk shall be filed with this Board;

(f) That the applicants shall obtain all necessary outside agency approval, including, but not limited to:

- (i) Ocean County Planning Board;
- (ii) DEP/CAFRA, or a Statement of No Interest;
- (iii) Soil Erosion and Sediment Control; and
- (iv) Such other outside agency approval, as may be required;

(g) If another governmental agency grants a waiver or variance of a regulation effecting this approval of the conditions attached to it, then this Board shall have the right to review that issue, as it relates to this approval and these conditions, and may modify or amend the same;

(h) That the applicants post any and all required performance bonds and/or maintenance guarantees, as well as any and all inspection fees required by the Township Engineer, the Construction Code Official, the Building Officer and/or as required by the Land Use Ordinances of

the Township of Long Beach; the amounts of the said bonds and inspection fees shall be determined by the Township Engineer and shall be in the forms approved by the Township Attorney;

(i) That the applicants comply with all other requirements of the Township Engineer, except as varied herein; and

(j) That all Codes and Ordinances be complied with, other than as varied herein.

This Resolution is intended to memorialize the action taken by the Long Beach Township Land Use Board of December 4, 2003.

Moved by: SOUTHWICK

Seconded by: WARD

ROLL CALL VOTE:

Ayes: ALTMAN, SCHNELL, SOUTHWICK, VANBUREN, WARD, LEONETTI, MORAN

Nays: NONE

Certified to be a true copy of a Resolution adopted at a Regular Meeting of the Land Use Board held on January 8, 2004.

Dated: January 8, 2004



David Ward, Secretary

PUBLICATION DATE: JANUARY 14, 2004

APPROVED

LAND USE BOARD

FILE
Application No. LUB-48-03PF

Date May 6, 2004

LONG BEACH TOWNSHIP LAND USE BOARD
RESOLUTION OF MEMORIALIZATION

WHEREAS, application has been made to the Long Beach Township Land Use Board by JWT STORES I, INC., T/A HAND STORES, which premises are owned by J. W. Turner Properties, Inc., a New Jersey Corporation with offices located at 2507 Long Beach Boulevard, Ship Bottom, NJ, and are known and designated as Lots 6, 7, 8, & 9 in Block 4.12 on the Official Tax Map of the Township of Long Beach, which lands and premises are located on Long Beach Boulevard between 14th and 15th Streets, North Beach Haven, Long Beach Township, New Jersey for Final Site Plan Approval, to permit the construction of a two story building on lots 8 & 9 to be utilized as a garden center and retail shop on the first floor and two residential apartments on the second floor; and

WHEREAS, the Land Use Board of the Township of Long Beach granted to the Applicant Preliminary Site Plan Approval together with bulk variances and special reasons variances on December 4, 2003 and memorialized same in Resolution Number LUB 48-03P dated December 4, 2003; and

WHEREAS, the Long Beach Township Land Use Board has reviewed the report dated March 23, 2004, prepared by Frank J. Little, Jr., P.E., P.P, C.M.E, the Long Beach Township Engineer, and accepts the said report and incorporates the facts contained therein by reference herein; and

WHEREAS, the Long Beach Township Land Use Board, after carefully considering the application, plans, exhibits and testimony presented by the applicants, as well as the representations of the applicants' attorney, Mark Abramson, Esquire of the law firm of Kelly and Visotcky, and other members of the public, at the hearing conducted on April 1, 2004, has made the following findings of fact:

1. The Final Approval requested by the applicant is consistent with the requirements of the Preliminary Approval granted by the Long Beach Township Land Use Board on December 4, 2003 and memorialized in Resolution Number 48-03P dated December 4, 2003.

2. The Board has reviewed the site plan and finds that it complies with the Preliminary Approval previously granted.

3. The Board specifically approves the plantings and shrubs shown on the Final Site Plan and to the extent that this is different than the Preliminary Approval, the Preliminary Approval is hereby amended.

4. The Board incorporates herein the following plans:

(A) Major Site Plan, Sheet 1 of 1, prepared by Horn, Tyson & Yoder, Inc., signed by John Yoder, Dated 8/21/01, bearing the latest revision date of 12/04/2003; and

(B) Plan of Proposed Construction prepared by Nelke/Tyszka Land Surveyors, Inc., signed by Leon J. Tyszka, PLS, dated 8/26/1994, bearing the latest revision date of 11/17/03;

(C) Architectural Plans prepared by Rob Roth Architects, Inc., consisting of 4 pages:

1. Sheet S-1, Site Plan Sheet dated August, 2003;
2. Sheet P-1, First Floor Plan, dated June 2003;
3. Sheet P-2, Second Floor Plan, dated June 2003; and
4. Sheet P-3, East Elevation, dated Aust 2003.

5. The proposed development will not adversely impact on the public safety and welfare.

6. The applicant through it's attorney agreed that

(A) it will coordinate the change of the Existing Type B inlet along Long Beach Boulevard to a restricted "B" inlet with the County Engineer to insure that the lines are clear and further agreed to change and upgrade the pipes in the area of the County and Township Engineers determine that since an upgrade is needed; and

(B) to add a note to the plan indicating that outside storage and retail will be restricted to the covered areas and interior of the Garden Center Building;

NOW, THEREFORE, BE IT RESOLVED, this 6~~th~~th day of May, 2004, by the Long Beach Township Land Use Board, that the within application for Final Major Site Plan approval be and is hereby granted in accordance with the Final Site Plan Map prepared by Horn, Tyson & Yoder, Inc., dated 8/21/01 bearing the latest revision date of 12/04/03. The relief granted shall be subject to the following conditions:

(a) That the applicant comply with all of the requirements and conditions of the Preliminary Approval granted on December 4, 2003 and memorialized in Resolution Number LUB 48-03 except as to plantings which has been modified by the Final approval;

(b) The applicant coordinate the change in inlets on Long Beach Boulevard with the Ocean County Engineer to ensure that the pipes are clear and to change and upgrade the pipes at the applicant's sole expense if it is determined by either the Ocean County Engineer or the Township Engineer that the pipes need to be replaced;

(c) The applicant shall install the plantings and shrubs as shown on the Major Site Plan Map prepared by Horn, Tyson & Yoder, Inc. Entitled, "Major Site Plan Lots 6, 7, 8 in Block 4.12 Tax Map Sheet # 8 Long Beach Boulevard, Ocean County, New Jersey dated 8/21/01 and bearing the latest revision date of 12/4/03;

(d) A note shall be added on the plan to indicate that all outside storage and retail shall be restricted to the covered areas and the interior of the Garden Center Building;

(e) That any Deeds or other documents required by these conditions be approved in advance of recording in the Ocean County Clerk's Office by the Attorney for Long Beach Township Land Use Board and the Township Engineer, and proof of recording with the County Clerk shall be filed with this Board;

(f) That the applicants shall obtain all necessary outside agency approval, including, but not limited to:

- (i) Ocean County Planning Board;
- (ii) DEP/CAFRA, or a Statement of No Interest;
- (iii) Soil Erosion and Sediment Control; and
- (iv) Such other outside agency approval, as may be required;

(g) If another governmental agency grants a waiver or variance of a regulation effecting this approval of the conditions attached to it, then this Board shall have the right to review that issue, as it relates to this approval and these conditions, and may modify or amend the same;

(h) That the applicants post any and all required performance bonds and/or maintenance guarantees, as well as any and all inspection fees required by the Township Engineer, the Construction Code Official, the Building Officer and/or as required by the Land Use Ordinances of the Township of Long Beach; the amounts of the said bonds and inspection fees shall be determined by the Township Engineer and shall be in the forms approved by the Township Attorney;

(i) That the applicants comply with all other requirements of the Township Engineer, except as varied herein; and

(j) That all Codes and Ordinances be complied with, other than as varied herein.

This Resolution is intended to memorialize the action taken by the Long Beach Township Land Use Board of April 1, 2004.

Moved by: **ALTMAN**

Seconded by: **WARD**

ROLL CALL VOTE:

Ayes: **ALTMAN, KONNOR, LEONETTI, SCHNELL, VANBUREN, WARD, AND MORAN**

Nays: **NONE**

Certified to be a true copy of a Resolution adopted at a Regular Meeting of the Land Use Board held on May 6, 2004.

Dated: May 6, 2004



David Ward, Secretary

PUBLICATION DATE: MAY 12, 2004