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IN MEMORIAM

JONATHAN M. HEILBRUNN
(1965-2023)

November 2, 2023

VIA EMAIL: erubano@twp.howell.nj.us
AND OVERNIGHT MAIL

Eileen Rubano, Administrative Officer
Planning Board
Township of Howell
4567 Route 9 North, 2nd Floor
Howell, NJ 07731

RE: 6679 Route 9 NJ LLC
-as to -
APPLICATION NO. SP-1083
Eisfund 6679 LLC
6679 US Highway 9
Lot 18, Block 25
Howell Township, Monmouth County, New Jersey ("The Property")
REQUEST FOR TWO (2) ONE-YEAR EXTENSIONS

Dear Ms. Rubano:

Please be advised that the undersigned represents 6679 Route 9 NJ LLC with regard to the above-captioned property. Our client is the contact purchaser of The Property.

On behalf of our client, we respectfully request that the Howell Township Planning Board grant an extension of time for the protections afforded by a certain Resolution previously adopted by the Howell Township Planning Board. The original applicant on the Resolution was named, "Eisfund 6679 LLC", and was approved on May 20, 2021, and memorialized August 5, 2021. A copy of the Resolution is attached for your ready-reference.

The protections afforded by this Resolution concluded on August 5, 2023.

On behalf of our client, it is respectfully requested that the Planning Board grant two (2) one-year extensions, retroactive to August, 2023.

The approvals granted were coincidental with the pandemic conditions. Market conditions including availability of materials and labor, together with economic conditions

during the pandemic, interfered with Eisfund 6679 LLC's plans to re-purpose the existing building on The Property, consistent with the approvals granted.

The status of approvals for this project, as of this date, are as follows:

- (1) Howell Township – Resolution Compliance not complete.
- (2) NJ DOT Highway Occupancy Permit to install sidewalks – Required, not yet filed.
- (3) NJ DOT/Letter of No Interest – Required, not yet filed.
- (4) Monmouth County Planning Board – Exemption granted on February 2, 2021.
- (5) Freehold Soil Conservation District approval received May 6, 2021.
- (6) Howell Township MUD Water - Application filed and pending.
- (7) Howell Township Sewer – Conditional Sewer Approval granted May 18, 2021.
- (8) Manasquan River Regional Sewerage Authority – Required, not yet filed.

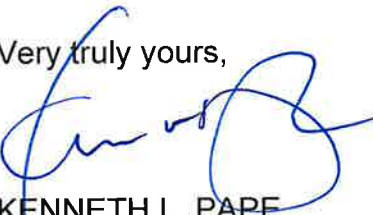
I enclose our client's checks payable to Howell Township, as follows:

- Check No. 101, in the amount of \$750.00, representing the escrow funding required for this request.
- Check No. 100, in the amount of \$500.00, representing the administrative application fee for the requested relief.

It is respectfully requested that this matter be scheduled for a hearing and action by the Planning Board at this time.

Thank you.

Very truly yours,



KENNETH L. PAPE
For the Firm

KLP:dhm

Enc. Howell Township Planning Board Resolution adopted August 5, 2021.

cc: 6679 Route 9 NJ LLC

Lorali Totten, PE, PP (via e-mail: ltotten@crestengineering.net)

Chaim Dubin (via e-mail: chaim@dubincontracting.com)

6679 Route 9 NJ LLC911 E County Line Rd
Lakewood, NJ 08701

TD Bank

100

1-136/312

Date: October 25, 2023**Pay To The**
Order Of **Township of Howell****\$ 500.00*********Five Hundred Dollars And No Cents****For:** *Application Fee*

Authorized Signature

⑈000100⑈ ⑆031201360⑆ 4429451183⑈

Check #: 100**Date:** October 25, 2023**Amount:** \$500.00**Pay To:** Township of Howell**Memo:** *Application Fee***Account Name:** 6679 Route 9 NJ LLC**Account #:** *****1183**Bank:** TD Bank**Check #:** 100**Date:** October 25, 2023**Amount:** \$500.00**Pay To:** Township of Howell**Memo:** *Application Fee***Account Name:** 6679 Route 9 NJ LLC**Account #:** *****1183**Bank:** TD Bank

6679 Route 9 NJ LLC911 E County Line Rd
Lakewood, NJ 08701

TD Bank

101

1-136/312

Date: October 25, 2023**Pay To The**
Order Of **Township of Howell****\$ 750.00*********Seven Hundred Fifty Dollars And No Cents****For:** **Escrow Fee**

Authorized Signature

⑈000101⑈ ⑆031201360⑆ 4429451183⑈

Check #: 101**Date:** October 25, 2023**Amount:** **\$750.00****Pay To:** Township of Howell**Memo:****Account Name:** 6679 Route 9 NJ LLC**Account #:** *****1183**Bank:** TD Bank**Check #: 101****Date:** October 25, 2023**Amount:** **\$750.00****Pay To:** Township of Howell**Memo:****Account Name:** 6679 Route 9 NJ LLC**Account #:** *****1183**Bank:** TD Bank

**RESOLUTION
TOWNSHIP OF HOWELL PLANNING BOARD
RESOLUTION OF MEMORIALIZATION
MONMOUTH COUNTY, NEW JERSEY
PRELIMINARY AND FINAL SITE PLAN APPROVAL
ALONG WITH ANCILLARY VARIANCE RELIEF**

**Approved: May 20, 2021
Memorialized: August 5, 2021**

**IN THE MATTER OF: EISFUND 6679, LLC
APPLICATION NO. SP-1083**

WHEREAS, an application for preliminary and final site plan approval along with ancillary variance relief has been made to the Howell Township Planning Board (hereinafter referred to as the "Board") by Eisfund 6679, LLC (hereinafter referred to as the "Applicant") on lands known and designated as Block 25, Lot 18, as depicted on the Tax Map of the Township of Howell (hereinafter "Township"), and more commonly known as 6679 New Jersey State Highway Route 9 North in the HD-1 (Highway Development) Zone; and

WHEREAS, a remote public hearing was held before the Board on May 20, 2021, with regard to this application; and

WHEREAS, the Board has heard testimony and comments from the Applicant, witnesses and consultants, and with the public having had an opportunity to be heard; and

WHEREAS, a complete application has been filed, the fees as required by Township Ordinance have been paid, and it otherwise appears that the jurisdiction and powers of the Board have been properly invoked and exercised.

NOW, THEREFORE, does the Howell Township Planning Board make the following findings of fact and conclusions of law with regard to this application:

1. The subject Property contains 16.2 acres with 300 feet of frontage along New Jersey State Highway Route 9 North. The subject Property is split between two (2) zones, with the front six

(6) acres of the parcel located in the HD-1 Zone and the rear 11.2 acres located in the ARE-2 Zone. The subject Property is currently improved with a 1-story, 15, 300 s.f. masonry building which previously operated as an Aldi grocery store. The subject Property is also improved with a parking lot with associated sidewalks, curbing and striping which are all contained within the HD-1 Zone. The remainder of the subject Property to the rear of the improved area, within the ARE-2 Zone, is predominately wooded and undeveloped. A stormwater management detention basin exists to the east of the building and parking area and ultimately discharges stormwater to the undeveloped portion of the subject Property to the east. Access to the subject Property is provided from Route 9 via a right-in/right-out only driveway. The building is serviced by existing municipal water and sanitary sewer.

2. The Applicant proposes to construct a 929 s.f. building addition and to reutilize the existing building for a professional/medical office. A majority of the previously developed portion of the subject Property, including the driveway, drive aisles, and parking will remain the same. The proposed modifications include increasing several parking islands to result in a net decrease in impervious coverage, removal of the existing loading zone to be replaced by a concrete outdoor seating area, relocation of the trash enclosure, and construction of a landscape wall and monument sign near the driveway entrance. The existing utilities and stormwater management system will remain the same. Additional landscaping is proposed through the developed area and the existing lighting that previously served the grocery store will remain unchanged. All improvements will be contained within the front portion of the subject Property within the HD-1 Zone.

3. Counsel for the Applicant, Kenneth L. Pape, Esq., stated that the application involved a request for preliminary and final site plan approval to repurpose an existing Aldi grocery store into a medical office building. He stated that there were few proposed actual

constructed improvements but that a new architectural scheme would be employed as well as a new outdoor pavilion in the rear for employees.

4. The Applicant's Engineer and Planner, Lorali Totten, P.E., P.P., testified that the subject Property is located in the southern portion of the Township along Route 9. She also explained that the proposed area of development would be located exclusively within the HD-1 portion of the subject Property. She stated that the subject Property also contains 16.71 acres.

5. Ms. Totten further testified that the existing grading would be retained. Some pavement around the western and northern side of the building would also be relocated. The existing drainage also would not be changed from the prior approval. Ms. Totten explained that striping in the parking lot would be changed to be 9 ft. wide to provide 111 parking spaces where 108 parking spaces are required. She also stated that the entrance and exits would remain the same. Ms. Totten then stated that the aisle width would be reduced to 25 ft. at the entrance. She then identified the loading dock on the western corner of the building in a depressed area and stated that a new terrace would replace it. Ms. Totten then stated that the dumpsters were also located in the loading area and would be relocated to the northeastern portion of the subject Property. Additional landscaping would be added to the other side of the enclosure. She also stated that there were no changes in lighting proposed.

6. Ms. Totten then identified an existing tree buffer along the northern property line which would be enlarged. Additional shade trees will also be planted. A paved area around the parking area would further be removed to add landscaping. This would all reduce impervious coverage on the subject Property. She further stated that the Applicant would comply with all landscaping comments contained in the report of the Board Engineer. The existing sign would also be replaced by a monument sign. The sign would be internally illuminated and would satisfy

all size requirements. Ms. Totten then stipulated that the sign would be moved back to comply with all set back requirements. She reiterated that the current location of the trash enclosures are in the loading dock area and will be moved to the northeast corner in an enclosure which will be enclosed on both sides with landscaping. An “L” shaped island located near the handicapped area will also be striped and used for deliveries.

7. Ms. Totten then identified the following initially required variance relief:

- a. **Section 188-77 (Schedule II)** – The minimum side yard setback is 25 feet, or the height of the principal building (26.48 feet), whichever is greater. The existing building is setback 25.1 feet from the side property line, however, it appears the height of the building will be increased with this application.
- b. **Section 188-12** – Fences and walls shall not be higher than four (4) feet if located in the required setback area and shall have open space for light and air representing at least 50% of the fence area. The height and material of the landscape wall shall be identified.

8. Ms. Totten also identified the following initially required design waiver relief:

- a. **Section 188-32C(6)** – All outdoor recycling storage areas shall be screened by a solid uniform wall or fence. Landscaping shall also be provided around any outdoor recycling storage area in an aesthetically pleasing manner. The trash enclosure consists of masonry walls but landscaping is only proposed on one side.
- b. **Section 188-106A** – Driveways with widths exceeding 24 feet shall be approved by the Planning Board giving consideration to the width, curbing, traffic flow, radii of curves, and traffic lane divider. The existing driveway is 30 feet wide at the throat.
- c. **Section 188-106C** – Curbing between vehicular and pedestrian ways shall be designed with periodic ramps from the street or parking grade to the sidewalk which shall be no less frequent than one every 65 feet and located in accordance with a pedestrian circulation plan. Curb ramps are not proposed along the sidewalk fronting the building.
- d. **Section 188-106F(1)(a)** – On commercial applications, a 30 foot wide circulation aisle must be maintained for emergency purposes; whereas the existing main drive aisle is proposed to be reduced from 30 feet wide to 25 feet.
- e. **Section 188-107B** – A minimum of one (1) loading space is required for medical centers or office buildings in excess of 10,000 s.f.; whereas no loading zone is proposed.

- f. **Section 188-224G(1)** – All lots shall have private walkway access to a public sidewalk in the right-of-way. All site plan applications shall provide public sidewalks along the entire frontage of the subject Property. The proposed development does not propose sidewalks along the Route 9 frontage, nor on-site sidewalk access to the right-of-way.
- g. **Section 256-5** – Monument signs shall be setback a minimum of 20 feet from the right-of-way of a highway and shall be planted with shrubs and seasonal flowers. The proposed sign is setback approximately 18 feet and is not surrounded by plantings.

9. The Board's Planner recommended sidewalks along the Route 9 frontage. Mr. Pape stipulated that the Applicant would provide sidewalks along the Route 9 frontage.

10. The Applicant's traffic professional, Scott Kennel, testified that the existing driveway would adequately accommodate the proposed use. He stated that the prior use accommodated tractor trailers and large wheel base vehicles and that the proposed ingress and egress would usually involve smaller vehicles. He also stated that the internal circulation would successfully accommodate box trucks, garbage trucks and emergency vehicles. Mr. Kennel further noted that the Township Fire Bureau had approved the plan. He also stated that the proposed use would generate less traffic during peak hours than the previously approved Aldi use. Mr. Kennel also believed that the NJDOT would issue a letter of no interest. He further confirmed that the required number of parking spaces would be provided.

11. The Applicant's architect, Lawrence Schreiber, AIA, identified the existing entrances for the prior Aldi use. He then identified the new architectural treatment which is proposed. He also stated that a slight increase in roof height would be located near the Route 9 portion of the building. A change of materials was also provided. Mr. Schreiber then testified that a main lobby would be located in the center with access to individual suites. Windows would be added and the texture was being altered.

12. Ms. Totten then provided additional planning testimony. She stated that the plans would be revised to eliminate much of the above-referenced relief. She stated that reducing the aisle width allowed for creating additional landscaped area. The Fire Bureau also confirmed that the reduced size did not have any safety impact.

13. Ms. Totten then testified that the height of the building was proposed to be increased with the addition of the façade on the existing overhang. She stated that the modification resulted in a more aesthetically appealing structure. The side yard setback also would not change the building in any appreciable manner.

14. Mr. Pape then stipulated that the bump out requirement would be complied with. This would eliminate the design waiver requirement.

15. There were no members of the public expressing an interest in this application.

16. The Board has received, reviewed and considered various exhibits and reports with regard to this application. Those exhibits and reports are set forth on the attached Exhibit List, and all exhibits and reports as set forth on said Exhibit List have been incorporated herein in their entirety.

WHEREAS, the Howell Township Planning Board, having reviewed the proposed application and having considered the impact of the proposed application on the Township and its residents to determine whether it is in furtherance of the Municipal Land Use Law; and having considered whether the proposal is conducive to the orderly development of the site and the general area in which it is located pursuant to the land use and zoning ordinances of the Township of Howell; and upon the imposition of specific conditions to be fulfilled, hereby determines that the Applicant's request for preliminary and final site plan approval along with ancillary variances and design waiver relief should be granted.

The Board finds that the Applicant has proposed a permitted use in the Zone but does require bulk variance relief. The Municipal Land Use Law, at N.J.S.A. 40:55D-70c provides Boards with the power to grant variances from strict bulk and other non-use related issues when the applicant satisfies certain specific proofs which are enunciated in the Statute. Specifically, the applicant may be entitled to relief if the specific parcel is limited by exceptional narrowness, shallowness or shape. An applicant may show that exceptional topographic conditions or physical features exist which uniquely affect a specific piece of property. Further, the applicant may also supply evidence that exceptional or extraordinary circumstances exist which uniquely affect a specific piece of property or any structure lawfully existing thereon and the strict application of any regulation contained in the Zoning Ordinance would result in a peculiar and exceptional practical difficulty or exceptional and undue hardship upon the developer of that property. Additionally, under the c(2) criteria, the applicant has the option of showing that in a particular instance relating to a specific piece of property, the purpose of the act would be advanced by allowing a deviation from the Zoning Ordinance requirements and the benefits of any deviation will substantially outweigh any detriment. In those instances, a variance may be granted to allow departure from regulations adopted, pursuant to the Zoning Ordinance.

Those categories specifically enumerated above constitute the affirmative proofs necessary in order to obtain “bulk” or (c) variance relief. Finally, an applicant must also show that the proposed variance relief sought will not have a substantial detriment to the public good and, further, will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance. It is only in those instances when the applicant has satisfied both these tests, that a Board, acting pursuant to the Statute and case law, can grant relief. The burden of proof is upon the applicant to establish these criteria.

The Board finds the Applicant has satisfied the positive criteria. The proposed side yard setback, which may be reduced to 24.8 feet, is necessary in order to provide a desirable visual environment and also comply with the architectural bump out requirements. This plan therefore results in the promotion of the goals of planning articulated in N.J.S.A. 40:55D-2. The positive criteria has therefore been satisfied.

The Board also finds that the negative criteria has been satisfied. As previously stated, the non-compliant conditions result in a plan which creates a desirable visual environment. This promotes the interests of both the Applicant as well as the general public. The plan also does not result in any additional traffic, noise or odors than otherwise permitted by Ordinance. The Board therefore finds there will not be any substantial impairment of the Zone Plan or Zoning Ordinance or substantial detriment to the public good. The negative criteria has therefore been satisfied.

The Board concludes that the positive criteria substantially outweighs the negative criteria and that variance relief pursuant to N.J.S.A. 40:55D-70c(2) may be granted. The Board finds that the remainder of the previously identified variance relief is no longer necessary due to plan revisions.

The Board also finds that the Applicant may be granted design waiver relief. The Board finds that the proposed deviations are necessary in order to create a visually attractive development with an increased landscaped area. The location of the existing improvements create a practicable difficulty in complying with the strict requirements of the design ordinance while achieving the aforementioned planning goals. Relief pursuant to N.J.S.A. 40:55D-51 is therefore appropriate.

The Board finds that with the exception of the above relief, the Applicant complies with the remainder of the zoning, design and site plan Ordinance requirements. Preliminary site plan

approval pursuant to N.J.S.A. 40:55D-46 and final site plan approval pursuant to N.J.S.A. 40:55D-50 are appropriate.


NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Howell on this 5th day of August, 2021, that the action of the Planning Board taken on May 20, 2021, granting Application No. SP-1083 of Eisfund 6679, LLC, for preliminary and final site plan approval pursuant to N.J.S.A. 40:55D- 46 and 50, ancillary variance relief pursuant to N.J.S.A. 40:55D-70c(2) and design waiver relief pursuant to N.J.S.A. 40:55D-51 are hereby memorialized as follows:

The application is granted subject to the following conditions:

1. All site improvement shall take place in the strict compliance with the testimony and with the plans and drawings which have been submitted to the Board with this application, or to be revised.
2. Except where specifically modified by the terms of this Resolution, the Applicant shall comply with all recommendations contained in the reports of the Board professionals.
3. The Applicant shall provide a letter of no interest from the NJDOT.
4. The Applicant shall provide a compliant sidewalk along the Route 9 frontage.
5. The Applicant shall revise the plans to comply with Section 188-12 of the Township Code.
6. The Applicant shall revise the plans to comply with Section 188-32C(6) of the Township Code.
7. The Applicant shall revise the plans to comply with Section 188-106C of the Township Code.
8. The Applicant shall revise the Plans to comply with Section 188-107B of the Township Code.
9. The Applicant shall revise the plans to comply with Section 188-224G(1) of the Township Code.
10. The Applicant shall revise the plans to comply with Section 2556-5 of the Township Code.
11. The Applicant shall provide a certificate that taxes are paid to date of approval.

12. Payment of all fees, costs, escrows due and to become due. Any monies are to be paid within twenty (20) days of said request by the Board Secretary.
13. Subject to all other applicable rules, regulations, ordinances and statutes of the Township of Howell, County of Monmouth, State of New Jersey or any other jurisdiction.

BE IT FURTHER RESOLVED that the Board secretary is hereby authorized and directed to cause a notice of this decision to be published in the official newspaper at the Applicant's expense and to send a certified copy of this Resolution to the Applicant and to the Township Clerk, Engineer, Attorney and Tax Assessor, and shall make same available to all other interested parties.



Brian Tannenhaus, Chairman
Howell Township Planning Board

ON MOTION OF: Ms. Casper .

SECONDED BY: Mr. Huszar

ROLL CALL:

YES: Mr. Dorato, Mr. Huszar, Ms. Casper and Chairman Tannenhaus

NO:

ABSTAINED:

ABSENT: Mr. Boisvert, Chief Kudrick and Mr. Cristiano

DATED: August 5, 2021

I hereby certify this to be a true and accurate copy of the Resolution adopted by the Howell Township Planning Board, Monmouth County, New Jersey at a public meeting held on August 5, 2021.



Eileen Rubano, Secretary
Howell Township Planning Board

HOWELL TOWNSHIP PLANNING BOARD

EXHIBITS

Case No. SP-1083 / Eisfund 6679, LLC

Preliminary and Final Major Site Plan

May 20, 2021

- A-1 Development Application.
- A-2 Application Checklist.
- A-3 Preliminary and Final Major Site Plan consisting of eight (8) sheets prepared by Crest Engineering Associates, Inc. dated 12/16/20, unrevised.
- A-4 Statement of Negligible Environmental Impact prepared by Crest Engineering Associates, Inc. dated 12/16/20.
- A-5 Stormwater Management Drainage Narrative prepared by Crest Engineering Associates, Inc. dated 12/16/20.
- A-6 Statement of Negligible Traffic Impact prepared by Crest Engineering Associates, Inc. dated 12/16/20.
- A-7 Architectural Plans consisting of three (3) sheets prepared by Brian S. Flannery dated 10/14/20.
- A-8 ALTA/NSPS Land Title Survey consisting of one (1) sheet prepared by Control Point Associates, Inc. dated 06/08/21, unrevised.
- A-9 Prior Resolution for Case No. SP-840.
- A-10 Prior Resolution for Case No. BA89-06.

INTEROFFICE REPORTS

- B-1 Freehold Soil Conservation District Initial Application review letter dated 01/12/21.
- B-2 Shade Tree Commission Site Plan Review dated 02/17/21.
- B-3 Farmers Advisory Committee Site Plan Review dated 02/25/21.
- B-4 Monmouth County Planning Board Letter of No Interest dated 02/22/21.
- B-5 Fire Bureau Site Plan Review dated 03/08/21.
- B-6 Environmental Commission Site Plan Review dated 07/11/18.

- B-7 Preliminary Conceptual Sewer Approval Letter dated 03/17/21.
- B-8 Monmouth County Board of Health Memo dated 03/29/21.
- B-9 Board Engineer's Review Letter dated 03/26/21.
- B-10 Board Engineer's Completeness Memo dated 04/01/21.
- B-11 Board Planner's Review Letter dated 04/30/21.
- B-12 Shade Tree Commission Site Plan Review dated 05/19/21.

NOTICE

PLEASE TAKE NOTICE THAT ON MAY 20, 2021, THE PLANNING BOARD OF THE TOWNSHIP OF HOWELL GRANTED PRELIMINARY AND FINAL SITE PLAN APPROVAL WITH ANCILLARY VARIANCE RELIEF TO EISFUND 6679, LLC FOR BLOCK 25, LOT 18 AS DEPICTED ON THE TAX MAP OF THE TOWNSHIP OF HOWELL, AND MORE COMMONLY KNOWN AS AT 6679 NEW JERSEY STATE HIGHWAY ROUTE 9 NORTH, HOWELL TOWNSHIP, MONMOUTH COUNTY, NEW JERSEY, APPLICATION NUMBER SP-1083 TO PERMIT THE FOLLOWING DEVELOPMENT: REPURPOSE AN EXISTING "ALDI" SUPERMARKET BUILDING BY CONSTRUCTING AN ADDITIONAL 929 S.F. TO CREATE A MEDICAL OFFICE COMPLEX. MAPS AND ACCOMPANYING DOCUMENTS ARE AVAILABLE FOR REVIEW IN THE OFFICE OF THE PLANNING BOARD, HOWELL TOWNSHIP MUNICIPAL BUILDING, 4567 ROUTE 9 NORTH, HOWELL, NEW JERSEY.

EISFUND 6679, LCC