

**Trader Joe's East, Inc.
457 Mt. Pleasant Avenue
West Orange, New Jersey
Block 157, Lot 5**

Previous Planning Board and Zoning Board of Adjustment Decisions

Application Form, Section C. – Property Information
August 14, 2025

The following are the resolutions which were provided to Trader Joe's East, Inc. in response to a public records request filed by Gibbons P.C. seeking all prior approvals of the Planning Board and Zoning Board of Adjustment. Since the earliest of these resolutions, from 1994, references an amended site plan, there appear to be additional approvals prior to 1994 which were not provided and may have been lost, destroyed or otherwise were not available.

Exhibit	Date	Board	Description of Resolution/Approval
A	March 23, 1994	Planning Board PB-93-19	Parking variance and amended site plan approval to revise parking layout.
B	September 3, 1997	Planning Board (adopting recommendation of Technical Review Committee of the Planning Board) PB-97-19T	Approval of site plan application for 48 seat sit-down Bagel eatery.
C	July 15, 1999	Zoning Board ZB-99-01	Denial of application for: 1) a "d" variance to allow two principal uses on the same lot, for the purpose of demolishing the existing dwelling type structure and garage in the rear on Lot 8.04 and to combine Lot 8.04 with Lot 5, and erect a one story free standing retail building 3,600 square feet to be occupied by a convenience store and dentist, each space consisting of 1,800 square feet; 2) various "c" variances for excessive lot coverage, permission to have 196 parking spaces instead of 217 as required, minimum sidewalk width of 4 feet instead of 5 feet, dispensation of 75 foot buffer to the residential area required in addition to setback requirements, excessive maximum lot coverage, identification ground sign installation and waiver of submission of an Environmental Impact Statement; 3) amended site plan approval; and 4) consolidation of all lots into one lot.

Exhibit	Date	Board	Description of Resolution/Approval
D	August 17, 2000	Zoning Board ZB-00-12	Determination that doctrine of res judicata is not applicable to bar Applicant from proceeding with their application to obtain a “d” variance and for “c” variances connected therewith for premises located at 451-471 Mt. Pleasant Avenue, which shall include demolishing the existing 2 family dwelling with garage in rear of Lot 8.04 in order to construct a “satellite” building for 2 offices or stores to be part of the Metropolitan Plan Exchange Strip mall.
E	October 19, 2000	Zoning Board ZB-00-12	Approval of application for: 1) a “d” variance to allow two principal uses on the same lot, for the purpose of demolishing the existing dwelling type structure and garage in the rear on Lot 8.04 and to combine Lot 8.04 with Lot 5, and erect a one story free standing retail building of 3,240 square feet; 2) various “c” variances for excessive lot coverage (84.8% instead of 60% permitted), permission to have 182 parking spaces instead of 215 as required, minimum sidewalk width of 4 feet instead of 5 feet, dispensation of 75 foot buffer to the residential area required in addition to setback requirements, excessive maximum lot coverage, identification ground sign installation and waiver of submission of an Environmental Impact Statement; 3) amended site plan approval; and 4) consolidation of all lots into one lot.
F	July 6, 2006	Planning Board PB-05-57	Amended preliminary and final site plan approval for the addition to the Metropolitan Plant Exchange of an overhead canopy.
G	July 6, 2006	Planning Board PB-06-11	Amended preliminary and final site plan approval with parking variance (239 parking spaces required and 168 provided) to renovate an existing retail store to be used as a bagel shop with no more than 36 seats.
H	February 3, 2010	Technical Review Committee of the Planning Board PB-10-01T	Technical site plan approval, without variance, to operate a restaurant (“Julio’s”) with no more than 48 seats.

EXHIBIT A

**PLANNING BOARD RESOLUTION GRANTING A
PARKING VARIANCE AND CONDITIONALLY
APPROVING THE AMENDED SITE PLAN APPLICATION
FOR METROPOLITAN PLANT EXCHANGE LOCATED
AT 453-459 MT. PLEASANT AVENUE, BEING
BLOCK 157, LOT 5, ZONE B-2**

WHEREAS the Planning Board of the Township of West Orange, at its regular meeting held on February 2, 1994, considered the application for a parking variance and a Amended Site Plan, at 453-459 Mt. Pleasant Avenue, being Block 157, Lot 5, Zone B-2, West Orange, which application was submitted by Metropolitan Plant, Exchange with the consent of the owner Diener Mt. Pleasant Associates, Ltd., through its attorney, Robert C. Williams, Esq.; and

WHEREAS the Planning Board considered the presentation of Robert C. Williams, Esq., Attorney for the applicant, and the testimony of Greg Andersen, Architect for the applicant, Anthony Maiello, Store Manager; and

WHEREAS the general public having been given an opportunity to be heard, the Planning Board made the following findings of fact:

1. The Applicant is continuing a permitted use.
2. The revised parking layout would upgrade the size and location of the parking stalls.

NOW, THEREFORE, BE IT RESOLVED that the application for a variance from the parking requirements of the Township of West Orange Zoning Ordinance be and hereby is granted, subject to the approval of the Amended Site Plan Application.

NOW, THEREFORE, BE IT FURTHER RESOLVED that, the Amended Site Plan, dated June 28, 1993, revised February 8, 1994, for property located at 453-459 Mt. Pleasant Avenue, being Block 157, Lot 5, Zone B-2, West Orange, be and hereby is approved, subject to the following conditions:

1. The applicant shall provide a minimum of 190 parking spaces and no spaces are to be less than 8 feet wide and the parking spaces will be restriped on or before April 15, 1994.
2. The applicant shall remove the points from the barbed wire used to display hanging plants on or before April 15, 1994.
3. The applicant shall cut the poles to be flush with the roof of the building on or before April 15, 1994.

4. The applicant shall erect a sign, "No Trucks, No Left Turn" on the northeast corner of the property to prohibit trucks from using the bridge on Mt. Pleasant Place, on or before March 15, 1994.

5. The applicant shall no later than May 1, 1994, plant the planters shown on the site plan and replace the plants as needed.

6. No outdoor sales will be permitted more than three feet from the front of the building.

7. The applicant shall clean and maintain clean its portion of the brook.

8. The applicant shall provide the Township with the weights of recycled material disposed of by the applicant.

9. The applicant shall review the drainage problems at the bridge on the west side of the property with the Municipal Engineer.

10. The applicant shall not place merchandise for sale in or on the parking spaces.

11. The applicant shall place a sign indicating the sprinkler connection on the rear fence "Fire Department Sprinkler Connection."

12. The applicant shall indicate "Fire Lane" in front of the gate to the Fire Department Connection.

13. The outdoor sales area is to be limited to the use of the present tenant or its assigns for the same business. If another tenant moves into this location the outdoor plant area is to revert to the parking area as shown on the original site plan, if the same use is not continued.

The foregoing is a true copy of the resolution adopted by the Planning Board of the Township of West Orange.

Dated: March ~~2~~, 1994

23,

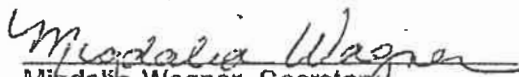

Migdalia Wagner, Secretary

EXHIBIT B

PB-97-19T

PLANNING BOARD RESOLUTION APPROVING
THE RECOMMENDATION OF THE TECHNICAL
ADVISORY COMMITTEE FOR THE SITE PLAN
APPLICATION OF BAGELS & TABLES, INC.
IN REGARDS TO THE PREMISES LOCATED AT
459 MT. PLEASANT AVENUE

WHEREAS, the Planning Board of the Township of West Orange, at its regular meeting held on August , 1997, considered the application for Site Plan approval, in the B-2 Zone, and for approval of the recommendation of the Technical Advisory Committee, which application was submitted on behalf of Bagels & Tables, Inc. by Carmine D. Campanile, Attorney at Law of New Jersey, with the consent of the owner, Dilner Mt. Pleasant Associates, Ltd. and the presentation of Carmine D. Campanile and Ben Solomon, President of Bagels & Tables, Inc.

NOW, THEREFORE, BE IT RESOLVED that the recommendation of Technical Advisory Committee be and is hereby accepted and the drawing by Robert T. Dutter dated July 14, 1997 and the site plan dated 4/14/94 by Craig D. Andersen, AIA, submitted by applicant for the property located at 459 Mt. Pleasant Avenue, being Block Number 157, Lot Number 5, Zone B-2 in the Town for West Orange, be and are hereby approved subject to the following conditions:

1. This approval includes the approval of 48 seats within the premises for customers to engage in sit-down dining.
2. There shall be no garbage storage outside of the premises except that the garbage storage may occur outside the premises at the area provided.
3. Applicant shall not increase the seating without first obtaining necessary variances from appropriate boards.

The foregoing is a true copy of the resolution adopted by the Planning Board of the Township of West Orange.

Dated: Sept. 3, 1997

Migdalia Wagner
Migdalia Wager, Secretary

RESPONSE TO OPRA 2023-1028_000434

EXHIBIT C

BOARD OF ADJUSTMENT
OF
THE TOWNSHIP OF WEST ORANGE
RESOLUTION
ZB-99-01

WHEREAS, Diener Mt. Pleasant Associates, LTD., having their principal office at 28 Millburn Avenue, Springfield, New Jersey, 07081, ("The Applicant") applied to the West Orange Zoning Board of Adjustment ("The Board") for a "D" variance to allow two principal uses on the same lot and for "C" variances for parking lot coverage, a free standing sign, a minimum side walk width of 4 feet instead of 5 feet and the elimination of the 75 foot buffer to residential area required; besides setback requirements; maximum lot coverage of 84.8% instead of 60%; Amended Site Plan approval and for elimination of an environmental impact statement, for Lots 5, 8.04, and 10 in Block 157 of the Tax Maps of the Township of West Orange and located in B-2 Zone, so that approval would be obtained to demolish the existing house and garage on Lot 8.04; and to incorporate Lot 8.04 into Lot 5 in order to construct a satellite store to be part of the Metropolitan Plant Exchange strip mall there located; said premises being known as 451-471 Mt. Pleasant Avenue, West Orange, New Jersey; and

WHEREAS, the Applicant presented proof that adequate notice of the hearing on said application was published in The West Orange Chronicle, one of the official newspapers of the Board; and

WHEREAS, the Applicant submitted proof of service of notice of the hearing upon all property owners within 200 feet of

the Property; and

WHEREAS, the application was heard at public meetings of the Board on May 13, 1999 and June 17, 1999; and

WHEREAS, the matter was presented by Lawrence B. Diener, Esquire as attorney for the Applicant; and

WHEREAS, the Applicant submitted an Area Map, Title Survey, Topo and Existing Conditions, General Site Plan, Site Plan Detail, Grading and Drainage Details, and Constructions Details each dated November 12, 1998 and each prepared and signed by Michael Lanzafama and H. Keller, Licensed Engineers and Land Surveyors; Landscape Plan dated November 12, 1998 signed and prepared by Brian S. Conway, Engineer; Floor Plans, Elevations and Sign prepared and signed by Harold Glucksman, Licensed Architect and dated May 15, 1998; and report on the bridge located on Lot 10 by Christopher P. Statile, Professional Engineer; and

WHEREAS, attorney Lawrence B. Diener, Esquire presented various witnesses in support of his case; who included Michael Lanzafama, Licensed Engineer and Land Surveyor; Harold D. Glucksman and Anthony Guzzo, both Licensed Architects of the State of New Jersey and who collaborated in preparing the plans submitted for the proposed new building; Kenneth Merrill, President of Food Shops Inc., a company engaged in developing convenience stores that has leased one of the proposed new stores to be built on the site; Dr. Glen Goldstein, Licensed Dentist of New Jersey who has signed a lease to occupy one of the two proposed new stores to be erected; Richard Blenden, Manager of the Metropolitan Plant Exchange Mall

for the past five years and Peter G. Steck, Licensed Professional Planner in the State of New Jersey; and

WHEREAS, various members of the Board questioned the various witnesses; and

WHEREAS, the Public Advocate was in attendance but did not ask any questions of any of the witnesses; and

WHEREAS, the comments and reports of Susan Borg, Township Planner, and the comments and report of Allan J. Palmere, Assistant Township Engineer were considered; and

WHEREAS, various members of the public questioned various witnesses; namely Clark Alpert part owner of the office building located 449 Mt. Pleasant Avenue, West Orange, New Jersey; Susan Dolinko, owner of Party Liquors, a retail business in the Metropolitan Plant Exchange Mall; Sebastian Cobello of 22 Mt. Pleasant Place, West Orange, New Jersey, who lives behind the existing dwelling and garage that are to be demolished; and

WHEREAS, the Board considered the comments of Sebastian Cobello mentioned above in opposition to the application, expressing concern about the noise, safety features and extra parking and traffic that would be generated by the convenience store proposed and the danger to the children on his block which number 14; and

WHEREAS, no one appeared in favor of the application; and

WHEREAS, no one else appeared either in favor or in opposition to the application; and

WHEREAS, all the facts and data contained in the

submitted application and all the facts and testimony adduced at the public hearing on said application are incorporated herein as Findings of Fact of this Board as if set forth at length herein; and

THE BOARD HAVING MADE THE FOLLOWING SPECIFIC FINDINGS OF OF FACT AND CONCLUSIONS:

A. Applicant is the owner of Lots 5, 8.04 and 10 in Block 157 known as 451-471 Mt. Pleasant Avenue, West Orange, New Jersey.

B. The property is located in the B-2 Zone, essentially a business zone.

C. Lot 10 is an entrance from Pleasant Valley Way to the Metropolitan Plant Exchange Shopping Mall located on Lot 5 and consisting of various stores and a large parking lot of long standing which fronts on Mt. Pleasant Avenue. There is a bridge on Lot 10 which leads to the Metropolitan Plant Exchange. Adjoining Lot 5 is Lot 8.04 on which is located a two story dwelling type structure with a garage in the rear, which said dwelling type structure had been occupied for residential purposes and more recently for commercial use.

D. Applicant seeks approval for the demolition and removal of the existing dwelling type structure and garage in the rear on Lot 8.04 and to combine Lot 8.04 with Lot 5. The Applicant then proposes to erect a one story free standing retail building 3,600 square feet total of 2 stores with each one being 1,800 square feet so that the existing parking lot would provide parking for the new stores.

E. Because the Ordinance for B-2 Zone does not permit two principal uses on the same lot, a "D" variance is sought for that purpose with respect to constructing the free standing retail building with two store fronts. In addition "C" variances are required for permission to have 196 parking spaces instead of 217 as required; for a minimum side walk width of four feet instead of five feet as required; for dispensing with the 75 foot buffer to the residential area required in addition to setback requirements; for maximum lot coverage of 84.8% instead of 60% as permitted; and for the installation of a free standing sign which is not permitted; and for a waiver of the requirement to submit an Environmental Impact Statement since the site is already built; and for Amended Site Plan approval.

F. The Metropolitan Plant Exchange existing mall, consisting of several retail stores besides the Metropolitan Plant Exchange, is a busy enterprise that draws many customers and many cars using the existing parking lot in the front and adding to the heavy traffic of Pleasant Valley Way and Mt. Pleasant Avenue which it abuts.

G. The Metropolitan Plant Exchange area, namely Lot 5, was the subject matter of an application before the Planning Board of the Township of West Orange, which on March 23, 1994, adopted a Resolution regarding the providing of 190 parking spaces minimum and for allowing the Metropolitan Plant Exchange to conduct some of its sales and storage outdoors.

H. The property fronts on Mt. Pleasant Avenue, a heavily

traversed road so that the proposed use would add to the traffic. The area is essentially commercial in character although there are residences to the rear of the buildings on Lot 8.04 that would be affected by the noise and operation of the proposed two new retail stores to be added one of which would be a dental office and the other a convenience store. There is a convenience store in the area on Pleasant Valley Way, West Orange across the street from Lot 10.

I. No testimony was offered to establish the need for another convenience store in view of the proximity of the other one.

J. The testimony of Kenneth Merrill, President of Food Shops Inc., developer of convenience stores and holder of a lease for one of the two new stores to be erected wherein a convenience store would be operated by their sublessee to be named, indicated that the expectation was up to 500 customers per day for the proposed convenience store which would mean up to 400 automobiles additional daily to what is going into the Mall now. Mr. Merrill further indicated that the convenience store would be open 7 days per week with hours from 6:00 A.M. to 11 P.M. and indicated that the turnover of customers was quick averaging probably no more than 3 minutes per customer. He indicated that the peak hours for such store would be 6:00 A.M. to 9:00 A.M., 11:30 A.M. to 1:00 P.M. and 7:30 P.M. to 9:30 P.M.

K. Peter G. Steck, Professional Planner, was offered to testify to what he considered the positive and negative criteria

being satisfied, and he accepted as part of his presentation the projections of Kenneth Merrill and also the testimony of Richard Blenden, the manager of the Metropolitan Plant Exchange Mall site who had conducted his own parking survey with random samplings at different times of day although he is not a traffic expert.

L. The Board also considered the report of Christopher P. Statile, Engineer regarding the existing bridge on Lot 10 which provides ingress and egress to the area from Pleasant Valley Way. No testimony was offered thereon.

M. Permitting a convenience store with the projected activity presented, will add to already existing heavy traffic and traffic hazards and pose safety threats to users of the mall and vehicles entering and exiting.

N. The Board was also concerned with security problems that would arise from a congregation of people using the convenience store in the area of the convenience store and affecting the residential people that live behind so as to pose a possible safety threat to the area, to the users of the facilities and to the residential homes in the vicinity.

O. The Board expressed concern, with the projection given by Kenneth Merrill, for the anticipated business of the convenience store, about the adequacy of parking and the dangers posed to exiting and entering vehicles and to the already burdened traffic in the area and to the present flow of traffic which results in blockage of traffic on occasion and with the bridge report failing to assess the danger aspects of continued use of the bridge in its

present state in that there was no physical testing of the bridge and the report was based upon a visual inspection.

P. Proofs presented by Applicant are insufficient to establish the basis for granting the parking variance sought.

Q. Internal circulation and flow of traffic in the Metropolitan Plant Exchange Mall as it now exists with difficulties traversing around the rear of Metropolitan Plant Exchange store occasioned by delivery trucks loading and unloading there will be exacerbated by the contemplated traffic increase for the new additions, particularly the convenience store, so as to adversely affect safety concerns and increase traffic hazards for pedestrians walking in the parking area to get to the stores and for vehicles using the area for ingress and egress, so as to substantially increase hazards to public welfare and the safety of the users of the facility.

R. The bridge on Lot 10 is built over the west branch of the Rahway River which abuts the mall site. The proofs presented did not satisfy the Board regarding storm drainage and runoff on the site being increased and adversely affecting the environment as not being adequately provided for.

S. Applicant failed to provide for preventing undue soil erosion and to prevent runoff of gas and oil into the river from the parking lot during storms by failing to provide for oil and water separators.

T. All the foregoing adversely affects the environment which will result in substantial detriment to the public safety, good,

and welfare.

U. It appeared that there are no benefits that would arise from the granting of the variances sought.

V. A granting of the variances would result in substantial detriment to the public safety, good and welfare.

W. The Applicant failed to sustain their burden of proof insofar as satisfying the positive and negative criteria are concerned.

X. To grant Applicant's relief would substantially impair the intent and purpose of the Zoning Ordinances and Master Plan of the Township of West Orange.

Y. The proposed application does not advance any of the purposes of the Municipal Land Use Law as enunciated in **NJSA 40:55D-2**.

Z. Granting the application would negatively impact on the safety and welfare of the users of the area and existing mall and residential residents to the rear thereof as set forth on the record by the various Board Members for the reasons stated.

A motion to approve the Application subject to certain conditions as enunciated by Susan Borg, Township Planner in her report and by Allan J. Palmere, Assistant Municipal Engineer in his report was made by Zal Velez, but failed to obtain a second and therefore could not be voted upon.

A motion to deny the application in its entirety was made by Alice Weiss and seconded by Bruce Buechler and voted upon as follows:

AYES

Buechler
Gunning
Sullivan
Weiss
Williamson

NAYS

Velez

ABSTENTIONS

0

NOW, THEREFORE, BE IT RESOLVED, that the Zoning Board of Adjustment of the Township of West Orange, based upon the Findings of Fact and Conclusions aforesaid, and upon the laws established in the State of New Jersey, hereby denies the application of Diener Mt. Pleasant Associates, LTD. in its entirety for the "D" variance sought for a second principal use on the same lot and for the various "C" variances sought and for the Amended Site Plan Approval, all of which are hereby denied in their entirety.

MOVED BY: Bruce Buechler

SECONDED BY: William Sullivan

THOSE OPPOSED: 1

THOSE IN FAVOR: 5

ABSTENTIONS: 0

I hereby certify that the foregoing Resolution was adopted by the Zoning Board of Adjustment of the Township of West Orange at its meeting of July 15, 1999 and that said Resolution memorializes the action of the Zoning Board taken on June 17, 1999 denying the application by a vote of 5 to 1.



BARBARA MURRAY, Board Secretary

EXHIBIT D

**BOARD OF ADJUSTMENT
OF
THE TOWNSHIP OF WEST ORANGE
RESOLUTION
ZB-00-12**

WHEREAS, Diener Mt. Pleasant Associates, LTD having their principal office at 28 Millburn Avenue, Springfield, New Jersey, 07081, ("The Applicant") applied to the West Orange Zoning Board of Adjustment ("The Board") for a determination as to whether the new application submitted for a "D" variance to allow 2 principal uses on the same lot and for various "C" variances for premises known as 451-471 Mt. Pleasant Avenue, West Orange, New Jersey, Block 157, Lots 5, 8.04, and 10 on the Tax Maps of the Township of West Orange, which application was denied previously, and concerning whether the new application is sufficiently different to avoid the imposition of a finding of res judicata ; and

WHEREAS, the Board first considered the application by motion that res judicata is not applicable so that if successful the Applicant can hereafter proceed with a substantive application; and

WHEREAS, the Applicant presented proof that adequate notice of the hearing on said application was published in The West Orange Chronicle, one of the official newspapers of the Board; and

WHEREAS, the Applicant submitted proof of service of notice of the hearing upon all property owners within 200 feet of the property; and

WHEREAS, the motion regarding the res judicata application was heard at a public meeting of the Board on July 20th, 2000; and

WHEREAS, the Applicant presented the argument regarding res judicata through his attorney, Lawrence B. Diener, Esq., who gave oral argument without any testimony being offered; and the submissions included Area Map, Title Survey, Topo Survey & Existing Conditions , General Site Plan, Site Plan Detail , Grading, Drainage, Soil Erosion; Construction Details & Erosion Notes; all prepared and signed by M. Lanzafama & H. Keller, Professional Engineers and all revised April 10, 2000; Landscape Plan prepared and signed by Brian S. Conway, Licensed Engineer, dated November 12, 1998; Floor Plans, Elevations, Sign Detail, prepared and signed by Harold Glucksman, Licensed Architect dated February 22, 2000 and Engineering Report and Drainage Plan signed and prepared by Gary Szelc, Professional Engineer, and dated April 14, 2000; and

WHEREAS, the attorney for the Applicant pointed out that in the new application a drainage plan which provides for the installation for a “dry well” in the parking lot has been provided which was not included in the prior application; that the bridge inspection regarding the new application has been performed which includes core testing and a load rating, whereas the prior inspection was only a visual one; that the within application contemplates 2 stores that will be either retail and/or professional office space without any specific tenant ; that a traffic engineer has been retained to do a professional traffic survey with this application which was not done before; and that the prior application consisted of a free standing building containing 3,600 square feet whereas the new application has been revised to scale the building down to 3,240 square feet with dimensions of 60 feet by 54 feet, thus reducing the depth by 6 feet . Further the easterly side yard will be increased by 4 feet and the sidewalk will be increased to 8 feet. Further changes include eliminating both the sidewalk at the rear of the building and the

retaining wall, the elimination of a rear door, the substitution of a ground sign for a free standing sign, the changing of the parking arrangement at the westerly driveway to comply with the Department of Transportation recommendations and to accommodate Storm Water Disposal, and the relocation of the dumpster enclosure; and

WHEREAS, the Board considered the report and comments of Susan Borg, Township Planner and the report and comments of Allan J. Palmere, Assistant Municipal Engineer; and

WHEREAS, the various members of the Board questioned the attorney for the Applicant; and

WHEREAS, no one else appeared in opposition to or in favor of the application; and

WHEREAS, all the facts and data contained in the submitted application and all the facts and testimony adduced at the public hearing on said application are incorporated herein as Findings of Fact of this Board as if set forth at length herein; and

THE BOARD HAVING MADE THE FOLLOWING SPECIFIC FINDINGS OF FACT AND CONCLUSIONS:

- A. Applicant is the owner of premises known as 451 - 471 Mt. Pleasant Avenue, West Orange, New Jersey being Block 157, Lots 5, 8.04 and 10 on the Tax Maps of the Township of West Orange.
- B. The property is located in the B-2 Zone, essentially a business zone.
- C. Lot 10 has an entrance from Pleasant Valley Way to the Metropolitan Plant Exchange Shopping Mall located on Lot 5 and consisting of various stores and a

large parking lot of long standing which fronts on Mt. Pleasant Avenue. There is a bridge on Lot 10 leading to the Metropolitan Plant Exchange from Pleasant Valley Way. Adjoining Lot 5 is Lot 8.04 on which is located a two story dwelling type structure with a garage in the rear, which said dwelling type structure had been occupied for residential purposes and more recently for commercial use .

- D. Applicant previously filed an application for approval for the demolition and removal of the existing dwelling type structure and garage on Lot 8.04 and to combine it with Lot 5. The Applicant then proposed to erect a one story free standing retail building with some 3,600 square feet, with 2 stores with each one being 1,800 square feet so that the existing parking lot would provide parking for the new stores.
- E. The application sought a "D" variance to permit 2 principal uses on the same lot and concerning the construction of the free standing retail building with 2 store fronts. In addition "C" variances were needed for 196 parking spaces instead of 217 parking spaces as required, for a minimum sidewalk width of 4 feet instead of 5 feet as required and for dispensing with the 75 foot buffer to the residential area required in addition to set backs requirements; for maximum lot coverage of 84.8% instead of 60% as permitted; and for the installation of the free standing sign which is not permitted; and for a waiver for the requirement to submit a Environmental Impact Statement since the site is already built and for Amended Site Plan approval. By resolution adopted July 15, 1999 memorializing the action of the Board taken on June 17, 1999 , the application was denied by a vote of 5 to

1 under Resolution ZB-99-01.

- F. Applicant has since filed a new application for the same location seeking to demolish the 2 story house and garage in the rear located on Lot 8.04 and to replace it with 2 stores to be made part of the Metropolitan Plant Exchange Strip Mall . It was noted that the new application is different in many respects from the application that was denied and the differences were noted as follows:
1. A drainage plan has been submitted providing for the installation of a "dry well" in the parking lot.
 2. A bridge inspection has been performed which includes core testing and load rating and not just a visual test as before.
 3. The present application contemplates either retail and/or professional office space for the two new offices but has no specific tenant.
 4. A traffic engineer will do a professional traffic survey which was not done previously.
 5. The new free standing building previously was 3,600 square feet and has been reduced to 3,240 square feet, being 60 feet wide by 54 feet deep .
 6. The easterly side yard will be increased by 4 feet and the sidewalk will be increased to 8 feet.
 7. Further changes include eliminating both the sidewalk at the rear of the building and the retaining wall and eliminating the rear door and substituting a ground sign for its free standing sign.

8. The parking arrangement at the westerly driveway has been changed to comply with the Department of Transportation recommendations and to accommodate storm water disposal .
9. The dumpster enclosure has been relocated .
- G. The Board then conducted a hearing to determine whether or not the new application was substantially different so as to prevent the application of the Doctrine of Res Judicata which would bar the new application from being heard substantively .
- H. After hearing argument from the Applicant's attorney and reviewing the brief that he had filed in support of his application it was determined by the Board that the application was substantially different from the original one that was denied. The Board, therefore, determined it was sufficiently different to prevent the application of res judicata to bar the Applicant from proceeding substantively and will permit the listing of the application substantively to be heard hereafter in the usual manner of determination.
- I. This resolution hereby incorporates by reference the statements and reasons of each of the Board members stated on the record on July 20, 2000 which comprises the Board's decision

A Motion to adopt the interpretation that res judicata was not applicable to the new application was made by Perry Jambor and seconded by Anthony Vecchio and voted upon as follows:

AYES**NAYS****ABSTENTIONS**

Abeles
Jambor
Sullivan
Vecchio
Weiss

0

0

NOW, THEREFORE, BE IT RESOLVED, that the Zoning Board of

Adjustment of the Township of West Orange, based upon the Findings of Fact and Conclusions aforesaid, and upon the laws established in the State of New Jersey, hereby interprets that res judicata is not applicable to bar the Applicant from proceeding with their application to obtain a "D" variance and for "C" variances connected therewith for premises 451- 471 Mt. Pleasant Avenue, West Orange, New Jersey which shall include demolishing the existing 2 family dwelling with garage in rear located on Lot 8.04 in order to construct a "satellite" building for 2 offices or stores to be part of the Metropolitan Plant Exchange Strip Mall there located regarding which a hearing will be scheduled hereafter on the substantive merits of the application for said relief.

MOVED BY: Mr. Jambor

SECONDED BY: Mr. Vecchio

THOSE IN FAVOR: 5

THOSE OPPOSED: 0

ABSTENTIONS: 0

I hereby certify that the foregoing Resolution was adopted by the Zoning Board of Adjustment of the Township of West Orange at its meeting on August 17, 2000 and that said resolution memorializes the action of the Board taken at its meeting held July 20, 2000 granting the motion that res judicata does not apply by a vote of 5 in favor and 0 against with no abstentions.

Ellen Ross

ELLEN ROSS, Board Secretary

EXHIBIT E

**BOARD OF ADJUSTMENT
OF
THE TOWNSHIP OF WEST ORANGE
RESOLUTION
ZB-00-12**

WHEREAS, Diener Mt. Pleasant Associates, LTD having their principal office at 28 Millburn Avenue, Springfield, New Jersey, 07081, ("The Applicant") applied to the West Orange Zoning Board of Adjustment ("The Board") for a "D" variance to allow 2 principal uses on the same lot and for various "C" variances for lot coverage, parking spaces, a free standing sign, minimum sidewalk width of 4 feet instead of 5 feet and removal of the requirement of a 75 foot buffer to the residential area and for Amended Site Plan approval and for elimination of an environmental impact statement, for Lots 5, 8.04, and 10 in Block 157 on the Tax Maps of the Township of West Orange and located in the B-2 Zone, so that approval would be obtained to demolish the existing house and garage on Lot point 8.04 and to incorporate Lot 8.04 into Lot 5 in order to construct a satellite store to be part of the Metropolitan Plant Exchange strip mall there located, being known as 451-471 Mt. Pleasant Avenue, West Orange, New Jersey; and

WHEREAS, the Applicant presented proof that adequate notice of the hearing on said application was published in The West Orange Chronicle , one of the official newspapers of the Board; and

WHEREAS, the Applicant submitted proof of service of notice of the hearing upon all the property owners within 200 feet of the property ; and

WHEREAS, the application was heard at public meetings of the Board on August 17th, 2000 and September 21st , 2000; and

WHEREAS, the matter was presented by Robert Williams, Esq., as attorney for the Applicant; and

WHEREAS, the Applicant submitted an Area Map, Title Survey, Topo and Existing Conditions, General Site Building, Proposed New Building Area, Site Plan Detail, Grading and Drainage and Construction Details all prepared by and signed by Michael Lanzafama and H. Keller, Licensed Engineers and Land Surveyors; and each dated April 10, 2000; Landscape Plan prepared and signed by Brian S. Conway, Engineer; dated November 12, 1998; Floor Plans, Elevations and Sign Detail prepared and signed by Harold Glucksman, Licensed Architect of New Jersey and dated February 22, 2000 and revised June 22, 2000 and Engineering Report and Drainage Plan prepared and signed by Gary W. Szelc, Professional Engineer, dated April 14, 2000 and Traffic Impact Study prepared and signed by Harvey Yesowitz, Licensed Professional Engineer and dated August, 2000, and report of Christopher P. Statile, Professional Engineer regarding the bridge on the premises dated June 19, 2000 and revised August 10, 2000; and

WHEREAS, various witnesses were presented on behalf of the Applicant in support of their case who included Gary Szelc, Professional Engineer, licensed in New Jersey who prepared the site plan and explained the various exhibits and pointed out the need for the various "C" variances needed and explained the parking situation and the basis for the variance sought and for the sign which will be an identification sign only; and Harold D. Glucksman, Licensed Architect of the State of New Jersey who explained the plans that were submitted and explained how the revised plans show a reduction in size of the building that will be built to replace the house that will be demolished showing it to be 3,240 square feet instead of 3,600 square feet as

previously and to have dimensions of 60 feet wide by 54 feet deep and other changes that are shown; Brian Intintola, Licensed Professional Engineer of New Jersey specializing in traffic matters referred to the Traffic Report of Harvey Yesowitz, stating it was a conservative study, recommends the findings and agrees that there is sufficient capacity for access to and from the site that will function at acceptable levels; and P. David Zimmerman, Licensed Professional Engineer and Licensed Planner testified explaining that he had studied the plans and site and was familiar with the applicable ordinances and area and testified that the proposals indicated would upgrade the site and would satisfy the positive and negative criteria involved for the granting of a "D" variance to allow two principal uses on the premises which is not allowed and also that the benefits would far outweigh any detriment supporting a "C-2" variance; and pointed out that the arbor vitae proposed would add to the utility and beauty of the property and would be beneficial to the neighborhood ; and that there was a need for the sign that was involved ; and

WHEREAS, various members of the Board questioned the various witnesses;
and

WHEREAS, the Public Advocate was in attendance but did not ask any of the questions of the witnesses; and

WHEREAS, the comments and reports of Susan Borg, Township Planner and the comments and report of Allan J. Palmere, Assistant Township Engineer were considered; and his comments with respect to the reports of Christopher P. Statile, regarding the bridge inspection on the property were particularly noted; and

WHEREAS, no one else appeared in favor of the application and no one else appeared either in favor of or in opposition to the application ; and

WHEREAS, it was pointed out that the previous application for the development of this strip mall was denied by the Board on July 15, 1999 , memorializing the action of denial taken June 17, 1999; and

WHEREAS, the Board by Resolution adopted August 17, 2000 found that the new application was sufficiently different so that there was no finding of res judicata so that the Board could consider this new application; and

WHEREAS, all the facts and data contained in the submitted application and all the facts and testimony adduced at the public hearing on said application are incorporated herein as Findings of Fact of this Board as if set forth at length herein; and

**THE BOARD HAVING MADE THE FOLLOWING SPECIFIC FINDINGS
OF FACT AND CONCLUSIONS:**

- A. Applicant is the owner of Lots 5, 8.04 and 10 in Block 157 shown on the Tax Maps of the Township of West Orange and is commonly known as 451-471 Mt. Pleasant Avenue, West Orange, New Jersey.
- B. The property is located in the B-2 zone, essentially a business zone.
- C. Lot 10 is an entrance from Pleasant Valley Way to the Metropolitan Plant Exchange Shopping Mall located on Lot 5 and consists of various stores and a large parking lot of long standing which fronts on Mt. Pleasant Avenue. There is a bridge on Lot 10 which leads to the Metropolitan Plant Exchange. Adjoining Lot 5 is Lot 8.04 on which is located a two story dwelling type structure with a garage in the rear, which said dwelling type structure had been occupied for residential purposes and more recently for commercial use.

- D. Applicant has submitted revised plans seeking approval for the demolition and removal of the existing dwelling type structure and garage in the rear on Lot 8.04 and to combine Lot 8.04 with Lot 5. The Applicant then proposed to erect a one story free standing retail building 3, 240 square feet with dimensions of 60 feet by 54 feet so as to have been reduced substantially from the prior plan. Further the easterly side yard will be increased by 4 feet and the sidewalk increased accordingly.
- E. The ordinance for the B-2 Zone does not permit 2 principal uses on the same lot. Therefore a "D" variance is sought for that purpose regarding the constructing of the free standing retail building referred to. In addition various "C" variances are required for permission to have 182 parking spaces instead of 215 as required ; for a minimum sidewalk width of 4 feet instead of 5 feet as required, for dispensing with the 75 foot buffer to the residential area required in addition to setback requirements, for maximum lot coverage of 84.8% instead of 60% as permitted; for the installation of a sign, being essentially an identification sign for the development; for a waiver of the requirement to submit an Environmental Impact Statement since the site is already built; for amended site plan approval and to consolidate all lots into one lot.
- F. The Metropolitan Plant Exchange, namely Lot 5, was the subject matter of an application before the Planning Board of the Township of West Orange which on March 23, 1994 adopted a resolution regarding the providing of 190 parking spaces minimum and for allowing the Metropolitan Plant Exchange to conduct

some of its sales and storage outdoors.

- G. On July 15th, 1999 the Board denied the prior application for development of this site.
- H. Revised plans were then submitted as were considered by the Board and their experts resulting in a hearing conducted by the Board on July 20th, 2000 to determine whether or not the new application was sufficiently different to avoid the imposition of a finding of res judicata ; and the Board determined that res judicata would not be a bar as the new application was sufficiently different and a resolution accordingly was adopted August 17th, 2000, thus permitting the Applicant to proceed with the application for the revised development based upon the revised plan. The licensed professional planner satisfied the positive and negative criteria and indicated that the proposed use would be the best use of the property and would have a positive impact on the neighborhood and would present positive improvements that would improve the strip mall and would not have a negative impact on the neighborhood and that the minimal increase in traffic would not have any negative impact on the area.
- I. The granting of the use variance to permit 2 principal uses on the same lot will not have any substantial detriment to the neighborhood or to the public good, safety and welfare.
- J. The benefits that would arise from the granting of the use variance would be that it will conform to what is best for the operation of such a strip mall and would improve it and would be a positive impact for the neighborhood without having

any negative impact on the neighborhood.

- K. To grant Applicant's relief will not substantially impair the intent and purpose of the Zoning Ordinance and Master Plan of the Township of West Orange.
- L. The various "C" variances sought are necessary to the proper development of the improvements for the shopping mall site.
- M. The Applicant has sustained their burden of proof insofar as satisfying the positive and negative criteria are concerned and has established to the satisfaction of the Board that the character of the neighborhood will be improved by granting the relief sought and there would be no negative impact on the surrounding area.
- N. The proposed application does advance the purposes of the Municipal Use Law as enunciated in NJSA 40:55D-2.
- O. Granting the application would not negatively impact on the character of the neighborhood and will not negatively affect the residents in the neighborhood.

A motion to approve the Application to allow a use or "D" variance to permit 2 principal uses on the same lot so that the existing two family dwelling with garage in the rear located on Lot 8.04 may be demolished in order to construct a satellite building for 2 offices or stores to be part of the Metropolitan Plant Exchange Strip Mall and for the various "C" variances requested in connection therewith as above recited was made by Sam Rosenberg and seconded by Perry Jambor and voted upon as follows:

AYES**NAYS****ABSTENTIONS**

Blind
Jambor
Rosenberg
Vecchio
Weiss

0

0

NOW, THEREFORE, BE IT RESOLVED, that the Zoning Board of

Adjustment of the Township of West orange, based upon the Findings of Fact and Conclusions aforesaid and upon the laws established in the State of New Jersey, hereby grants the application of Diener Mt. Pleasant Associates, LTD for a use or "D" variance to permit two uses on the same lot at premises 451-471 Mt. Pleasant Avenue, West Orange, New Jersey being Block 157, Lots 5, 8.04 and 10 on the Tax Maps of the Township of West Orange to allow them to demolish the existing building on Lot 8.04 and the garage in the rear and to construct on Lot 5 and 8.04 which lots shall be consolidated along with Lot 10 into one lot a single story building for offices or stores in accordance with the plans and does hereby grant the various "C" variances needed and requested which include lot coverage of 84.8% percent instead of 60% as permitted, parking for 182 spaces instead of 215 as permitted, sidewalk width to be 4 feet instead of 5 feet as required, 75 foot buffer to residential area in addition to setback requirements to be waived and an identification sign to be erected in accordance with the plans ; and for the waiver of the requirement of an Environmental Impact Statement and for approval of the Amended Site Plan .

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the grant of the said variances shall be conditioned upon the Applicant's and full and complete satisfaction of the following conditions:

1. The ground sign to be installed shall be to the satisfaction of the Township Planner

including the PIN lettering .

2. A safety sign shall be installed and maintained at all times requiring no left turn into Mt. Pleasant Place.
3. A stockade fence shall be erected on the northeast boundary to the satisfaction of the Township Planner.
4. Existing landscaping is insufficient and a further landscape plan shall be submitted to the Township Planner for her approval and all plants and landscaping required thereby shall be planted accordingly and maintained by the Applicant in perpetuity .
5. Hardwood mulch shall be used around all plantings and replaced annually .
6. All plants, shrubs and trees that die shall be replaced with plants of equal or better quality in conformance with the approved landscape.
7. A sewer fee of \$1.43 per square foot of the floor area of the proposed building will be required in accordance with Ordinance Number 1328-95.
8. A development fee must be paid by the Applicant in accordance with Ordinance Number 1136-92.
9. The Applicant shall obtain a tree cutting permit before proceeding with any tree removal and landscaping work.
10. The Applicant shall obtain approvals needed from the Essex County Planning Board, the New Jersey Department of Transportation and the Hudson, Essex, Passaic Soil Conservation District, before proceeding and submit the same as evidence that they have been obtained to the Township Planner.
11. All requirements recommended by the Engineering Department of the Township of

West Orange shall be performed which includes the following:

- A. The existing bridge on Lot 10 shall be implemented in accordance with the recommendations of Charles Statile, Engineer, to include a new 3 beam guardrail, repair the damage to existing pipe rail and chain link fence, repair the existing electrical service conduit and replacement of the concrete parapet at the northwest corner of the bridge.
- B. The rip-rap channel protection along both abutment footings needs to be constructed to prevent further scouring at the footings.
- C. A stream encroachment permit shall be obtained if required from the New Jersey Department of Environmental Protection for the construction of the rip-rap channel protection.
- D. Water that still ponds at the bridge shall be corrected so as to remove the same.
- E. Signs shall be posted on the property and on Pleasant Valley Way advising motorists of the weight restrictions on the bridge indicating signs that shall read "no trucks on bridge" with addition of two advance warning load posting signs and directional arrows on Pleasant Valley Way to be approved by the Township of West Orange and the County of Essex.
- F. The bridge shall be inspected annually and report of same submitted to the Engineering Department of the Township of West Orange annually.
- G. Such further plans with respect to the maintenance of the bridge as above stated shall be submitted to the Engineering Department for approval.
- H. The Applicant's engineers shall submit to the Engineering Department of the

Township of West Orange further topographical information to show that the area will drain to the proposed new inlets and dry well.

- I. Surface runoff calculations as needed for the areas contributing to the proposed inlet shall also be submitted to the Engineering Office of the Township of West Orange.
 - J. Water ponds near the existing dumpster near Mt. Pleasant Place must be eliminated.
 - K. Tire stops have to be replaced in the parking spaces along the river.
 - L. Some pavement repairs and crack sealing are required.
 - M. Some parking stalls will have to be restriped .
 - N. Wall repairs are needed along the river near Mt. Pleasant Place .
- 12. The approvals are conditioned on the West Orange Fire Department approval.
 - 13. All Findings of Fact and Conclusions of Law set forth herein are deemed conditions that are binding upon the Applicant.
 - 14. The Applicant shall execute, prior to the issuance of a Certificate of Occupancy, an Affidavit of Compliance certifying they have fulfilled all conditions set forth which shall be to the satisfaction of the Township Planner, Engineering Department and Building Department of the Township of West Orange who shall be furnished with a copy of this resolution. No certificate of Occupancy shall be issued until receipt of an executed Affidavit of Compliance approved and signed by the Zoning Official.

MOVED BY: Perry Jambor

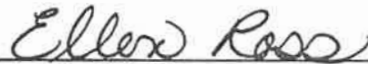
SECONDED BY: Anthony Vecchio

THOSE IN FAVOR: 4

THOSE OPPOSED: 0

ABSTENTIONS: 0

I hereby certify that the foregoing Resolution was adopted by the Zoning Board of Adjustment of the Township of West Orange at its meeting of October 19, 2000 and that said resolution memorializes the action of the Zoning Board taken at its meeting held on September 21, 2000, granting the application by a vote of 5 to 0



ELLEN ROSS, Board Secretary

EXHIBIT F

**RESOLUTION OF THE PLANNING BOARD OF THE
TOWNSHIP OF WEST ORANGE**

Metropolitan Plant Exchange

Granting Amended Preliminary and Final Site Plan Approval

WHEREAS, the Planning Board of the Township of West Orange, at its regular meeting held June 7, 2006, considered the Application for Amended Preliminary and Final Site Plan Approval for the addition to the Metropolitan Plant Exchange of an overhead canopy for premises located at 453-459 Mount Pleasant Avenue, being Block 157, Lots 5, 8.04 and 10, Zone B-2, which Application was submitted by Metropolitan Plant Exchange with the consent of the owner, Diener Mt. Pleasant Associates, LTD. through its attorney, Robert C. Williams, Esq.; and

WHEREAS, the Planning Board considered the presentation of Robert C. Williams, Esq., Attorney for the Applicant and the testimony, amended site plan dated February 3, 2006 and revised elevation view prepared by J. Michael Petry, PE, PP, RA and in the presence of Robert C. Rimol, of Rimol Greenhouse Systems, Inc. and Anthony Maiello a principal of Metropolitan Plant Exchange; and

WHEREAS, the General Public, the Public Advocate, the Township Planner, Susan Borg and Township Engineer Leonard Leopore all were given the opportunity to be heard and offered no objection to the Application; and

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

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of

West Orange that the following findings of fact, conclusions and determinations with regard to this application are hereby confirmed and memorialized:

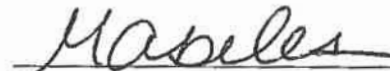
1. The Applicant is continuing an existing use and wishes to replace an existing canopy with a state of the art Rimol Greenhouse System which will provide all-weather coverage for the outside sales of the Metropolitan Plant Exchange.

2. There will be no changes to any existing site conditions and the Board determines that the addition of the proposed overhead canopy will serve only as an improvement to the existing site plan.

The Application of the Metropolitan Plan Exchange for amended site plan approval to construct an overhead canopy is hereby approved subject to the following condition:

1. The Applicant will satisfy any COAH Growth Share obligation that may arise as a result of the grant of this application should it be determined by a proper entity with jurisdiction and legal authority to make such determinations that such an obligation exists.

The foregoing is copy of the Resolution adopted by the Planning Board of the Township of West Orange at its regular meeting held on July 5, 2006.


MARIA ABELES, Secretary

Dated: 7/6/06

EXHIBIT G

PB-06-11

**RESOLUTION OF THE PLANNING BOARD OF THE
TOWNSHIP OF WEST ORANGE**

Parnosah of West Orange, Inc. d/b/a Poppy's Bagels

*Granting Amended Preliminary and Final Site Plan Approval
With Parking Variance*

WHEREAS, the Planning Board of the Township of West Orange, at its regular meeting held July 5, 2006, considered the Application for Amended Preliminary and Final Site Plan Approval for the Application submitted by Parnosah of West Orange, Inc. doing business as Poppy's Bagels to renovate an existing store to be used as a Bagel Shop replacing an existing retail store located at 451-471 Mount Pleasant Avenue, commonly known as Mount Pleasant Plaza. Said property being located in a B-2 Zone identified as Block 157, Lots 5, 8.04 and 10; and

WHEREAS, The Applicant has requested a Parking Variance where 239 spaces are required for the entire site and 168 are provided; and

WHEREAS, the Application has been submitted with the consent of the property owner, Diener Mt. Pleasant Associates, LTD. ; and

WHEREAS, the Planning Board considered the presentation of Robert C. Williams, Esq., attorney for the Applicant and the testimony of Anthony Marucci, a New Jersey Professional Engineer and Planner and the testimony of Jacob Geffner, the President of Parnosah of West Orange, Inc. d/b/a Poppy's Bagels; and

RESPONSE TO OPRA 2023-1028_000424

WHEREAS, the Board has received the Site Plan Application prepared by J. Michael Petry, PE, PP, RA of RCC Design dated April 18, 2006 as well as Architectural Plans submitted by Anthony Guzzo, A.I.A. of Glucksman & Guzzo, P.A., dated March 20, 2006; and

WHEREAS, the General Public and the Public Advocate and Township Planner, Susan Borg, had an opportunity to be heard; and

WHEREAS, no objection was voiced to the Application by anyone; and

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

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of West Orange that the following findings of fact, conclusions and determinations with regard to this Application are hereby confirmed and memorialized:

1. The Applicant is renovating an existing retail space which is currently vacant into a Bagel Shop with no more than 36 seats.
2. There will be no other changes to any exterior of the site other than the change of the sign to indicate Poppy's Bagels.

NOW, THEREFORE, BE IT RESOLVED that the Parking Variance to permit the addition of the Bagel Shop whereby on total site 239 spaces are required and 168 are provided is hereby approved.

NOW, THEREFORE, BE IT RESOLVED that this Application for Preliminary and Final Site Plan Approval to permit the renovation of existing retail space to be used as a Bagel Shop is hereby approved in accordance with the Site Plan and Architectural Plans referenced herein.

The foregoing is true copy of the Resolution adopted by the Planning Board of the Township of West Orange at its regular meeting held on July 5, 2006.



MARIA ABELES, Secretary

Dated: July 5, 2006

RESPONSE TO OPRA 2023-1028_000426

EXHIBIT H

JULIOS II LLC

PB-10-01T

Julio Rodriguez

459 Mount Pleasant Avenue

RESOLUTION OF THE PLANNING BOARD OF THE
TOWNSHIP OF WEST ORANGE
TECHNICAL REVIEW COMMITTEE

Granting technical site plan approval (technical review subcommittee), without variances, to operate a restaurant.

WHEREAS, the Technical Review Committee of the Planning Board of the Township of West Orange, at a meeting held on January 21, 2010, considered the application for technical site plan approval, without variances, to operate a restaurant on property located in the B-2 Zone, identified as Block B-2, Lot 5, which was submitted by Julio Rodriguez (the "Applicant"); and

WHEREAS, the Planning Board considered the presentation of the Applicant, Julio Rodriguez; and

WHEREAS, a complete application has been filed, all fees required by Ordinance have been paid and it otherwise appears that the jurisdiction and powers of the Technical Review Committee of the Planning Board have been properly invoked and exercised; and the Technical Review Committee of the Planning Board having conducted a vote on this application on January 21, 2010; and

RESPONSE TO OPRA 2023-1028_000427

WHEREAS, the Applicant requested technical site plan approval, without variances, to operate a restaurant;

NOW, THEREFORE, does the Planning Board (Technical Review Committee) of the Township of West Orange make the following findings of fact and conclusions of law with regard to this application:

1. This is an application for technical site plan approval, without variances, to operate a restaurant.

2. The Board (Technical Review Committee) has recommended and the Applicant has agreed to the following additional conditions of approval:

1. Green screening to be removed from windows.
2. Signage to be revised to show raised letters and background finish is to match the color of existing fascia.
3. Signage to be removed from door and windows.
4. If applicable, any supplemental sewer permit must be attained, as per Township Engineer.
5. The number of seats in the restaurant is restricted to a maximum of 48 seats.

NOW, THEREFORE, BE IT RESOLVED that this application for technical site plan approval, without variances, to operate a

restaurant is approved, subject to the additional conditions set forth in this resolution.

The foregoing is a true copy of the resolution adopted by the Planning Board of the Township of West Orange.

A handwritten signature in dark ink, appearing to read 'E. Kulinich', written over a horizontal line.

Elizabeth Kulinich, Board Secretary
Planning Board of the Township
of West Orange

Dated: 2/3/10

N:\PLANNING.BRD\WP\Resolutions\2010\PB-10-01T Julios LLC.doc