



March 19, 2021

MEMORANDUM TO: Kim Decker, Vernon Land Use Board Administrator

FROM: Jessica C. Caldwell, P.P., A.I.C.P., L.E.E.D. – G. A., Land Use Board Planner

SUBJECT: Preliminary and Final Major Site Plan for Farm 94, LLC
LU# 9-20-6
Block 58, Lot 2
Located at 442 NJSH Route 94
Township of Vernon, Sussex County

Dear Ms. Decker:

The Applicant, Farm 94, LLC, has submitted an application for preliminary and final major site plan approval to permit the expansion of two (2) existing on-site buildings, improve two existing parking areas and create a public campground with a bath house. The subject property is located in the AET, Agri-Ecotourism Zone. This is a large piece of property and there are several uses proposed in the two expanded on-site buildings. Based on the various uses proposed, use and conditional use variances are required. The Applicant is requesting an interpretation of the ordinance to determine further determine the applicability of the use and conditional use variances.

1. **Items Submitted:** The Applicant has submitted the following
 - A. Plan entitled, "Farm 94, LLC Proposed Farm/Retail Store Tax Map 33, Lot 2, Block 58 442 N.J.S.H. Route 94 Vernon Township, Sussex County, New Jersey," prepared by Lehman & Getz P.C., dated September 2, 2020 and revised through February 25, 2021.
 - B. Floor and Elevations Plans prepared by Harry Pharr Architect (undated).
 - C. Landscaping Plans (L1 and L2), prepared by Karen Arent Landscape Architect, dated 2/25/2021
 - D. Lighting Plan, prepared by Acuity Design Services, dated 1/5/2021
 - E. Copy of Site Application and Checklists with supporting documentation

2. **Existing Site & Use:** The subject property is located at 442 NJSH Route 94, Block 58, Lot 2, in the AET, Agri-Eco Tourism Zone. The property is developed with an existing two-story barn and one-story farm building with parking areas, a stone wall, a metal shed and a garage building.
3. **Highlands Area Designation:** The subject property is located in the Highlands Preservation Area. The Applicant has submitted a Highlands Exemption application to the Township, which is currently under review.
4. **Proposed Development:** The Applicant is seeking preliminary and final major site plan and variance approval to expand the existing barns and convert them into a farm store and a banquet hall with retail spaces, butcher shop and a commercial kitchen. The Applicant is also proposing modifications to the existing parking areas.

The northern Barn, the larger structure currently has two (2) floors. The first floor is proposed for an art gallery, craft spaces, or studio space for those type of activities and retail. The second floor is planned for a banquet hall (weddings, conferences, etc.). A one-story, 35' by 50' addition is proposed to include a commercial kitchen, butcher shop and bathrooms.

The southern barn, proposed for the Farm Store, is a one-story structure proposed to sell agricultural goods and related products. A one-story, 30' by 50' addition is proposed including bathrooms, a produce wash area and warehouse/equipment storage area. A covered walkway is also proposed for this building. A new septic and well are proposed adjacent to this facility.

The Applicant also proposes to use a portion of the eastern side of the property for a public campground for glamping (glamorous camping). The Applicant is proposing a 15' by 20' building for showers, restrooms and tent storage. It appears that the existing well and proposed septic are proposed for use with the glamping facility. The Applicant should confirm.

5. **Area and Bulk Requirements:** The subject site is located in the AET, Agri-Eco Tourism Zone. The following table reviews existing and proposed requirements.

AET Agri-Eco Tourism Zone

Standard	Required	Existing	Proposed
Min. Lot Area	5 acres	67.116 acres	67.116 acres
Min. Lot Width	250 Ft.	686 Ft.	686 Ft.
Min. Front Yard Setback	75 Ft.	8.2 Ft. min. (E) (1)	32.8 Ft (4) 23.9 Ft (6) (V)
Min. Side Yard Setback	35 Ft.	9.6 Ft. (E) (2)	>35 FT
Min. Rear Yard Setback	100 Ft.	1,718 Ft. (barn)	335 Ft. (glam camping building)
Max. Building Height	30 Ft 2 Story	36 Ft. 2 Story (E) (3)	36 Ft. 2 Story (3) (V)
Max. Building Coverage	10%	0.002%	0.003%
Max. Lot Coverage	15%	0.044%	0.045%

Notes: (E) = Existing Non-Conforming (V) = Variance Required

(1) = 8.2 ft. existing frame barn, 22.1 ft. existing block garage, 31.6 ft. existing barn

(2) = 9.6 ft. existing frame barn

(3) = 36 ft./2 story existing barn. **d(6) height variance.**

(4) = 32.8 ft. proposed restrooms / storage addition (**Variance Requested**)

(6) = 23.9 ft. proposed butcher shop / kitchen & retail space addition (**Variance Requested**)

6. Variance Review:

A. **Uses:** According to Chapter 330 Land Development, Attachment 5 – Schedule A, the following is found to be permitted, conditional or not permitted uses in the AET, Agri-Eco Tourism Zone as proposed:

- i. Art Galleries- Permitted.
- ii. Agricultural/Farm- Permitted.
- iii. Bathhouse/Restroom – Permitted.
- iv. Farmstand/Produce Store – Permitted.
- v. Craft Studios – Permitted.
- vi. Campground (public) – Conditional Use. **(d(3) conditional use variance)**
Campground, Public – A plot of ground upon which two or more campsites are located, established, or maintained for occupancy by camping units of the general public as temporary living quarters for children or adults, or both, for a total of 15 day or more in any calendar year, for recreation, education, or vacation purposes. (N.J.A.C. 8:22-1.2.)
- vii. Conference Room – Conditional Use **(d(3) conditional use variance)**.
- viii. Retail Sales – Outdoor – Conditional Use **(d(3) conditional use variance)**.
- ix. Restaurant – Conditional Use **(d(3) conditional use variance)**.
- x. **Retail Sales – Indoor – Not Permitted (d(1) use variance)**.
- xi. **Catering Facility/Banquet Hall – Not Permitted (d(1) use variance)**.

- B. **Variations pursuant to N.J.S.A. 40:55D-70d(1) are required for uses not permitted in the zone for the proposed banquet hall and retail sales (indoor).** It's unclear if the catering hall is also proposed as a restaurant. Restaurants are a conditionally permitted use and reviewed below.
- C. **Multiple Principal Uses and Structures:** According to Section 330-170, only one (1) principal building may be erected on a lot except for related buildings forming one (1) principal use in the same ownership. The Applicant is proposing retail sales – outdoor, farm store, butcher shop with a commercial kitchen, studio, gallery and event space and an area for glamping on the subject property. **There are multiple proposed principal uses and principal structures proposed on the site, necessitating a variance pursuant to N.J.S.A. 40:55D-70d(1).**
- D. **Section 330-189 Conditional Uses.** Conference rooms, campground (public), retail sales (outdoor), and restaurants are conditional uses in the AET Zone. There are general conditions that apply to all conditional uses requiring bulk standards in the zone be met. They are not. In addition, some conditions of each specific conditional use are not met. **Therefore, conditional use variances pursuant to N.J.S.A. 40:55D-70d(3) are required for the proposed conditional uses noted above.** Following is a review of the general conditions applicable to all conditional uses (Section 330-189) and each conditional use proposed with the relative specific conditions.

Section 330-189: General conditions applicable to all conditional uses. The following general standards shall apply to all conditional uses:

(1) Submission and approval of a complete application for site plan approval, and performance of any terms and conditions thereof, provided that this subsection shall not be construed to require the submission of a site plan for a detached single-family or two-family residence when such residence is a conditional use in any zone.

Condition met.

(2) Timely receipt of a favorable report on the application by the Sussex County Planning Board when necessary pursuant to N.J.S.A. 40:27-6 et seq., or approval as a result of that Board's failure to report thereon within the required time period.

Condition of any approval considered by the Board.

(3) Approval by such other governmental agencies as may have approval powers with respect to the application, together with the timely fulfillment of any terms and conditions thereof.

Condition of any approval considered by the Board.

(4) Satisfaction of all zoning requirements for the respective district contained in Schedules A and B[1] unless the use is more particularly regulated pursuant to this section, in which event the more particular regulation(s) shall control.

Not met (see Area and Bulk Requirements table above).

(5) Satisfaction of all design standards pursuant to Article VII et seq. with respect to site plans and subdivisions unless the use is more particularly regulated pursuant to this section, in which event the more particular regulation(s) shall control.

Condition of any approval considered by the Board.

(6) Satisfaction of all pertinent requirements of this article unless such requirement(s) are supplemented by one or more particular conditions under Subsection B of this section.

Condition of any approval considered by the Board.

(7) Satisfaction of all performance standards pursuant to § 330-205 unless the use is more particularly regulated pursuant to this section, in which event the more particular regulation(s) shall control.

Condition of any approval considered by the Board.

(5) Campgrounds (public) in the AET Districts.

(a) Principal uses shall be limited to recreational and/or instructional camp facilities and public campgrounds, including campsites for tents, lean-to(s), recreational vehicles, and cabins, excepting cabins for permanent, year-round or extended occupancy and/or dwelling purposes. *It appears the proposed glamping area will utilize tents. The Applicant should provide testimony regarding this condition.*

(b) All requirements of N.J.S.A. 26:4A-4 et seq. and N.J.A.C. 8:22-1.1 et seq. shall be satisfied with respect to, but not limited to, review and approval by the Health Department, NJDEP and other appropriate governmental agencies, construction, composition of a campground, potable water supply, water closets and showers, sanitation, solid waste, management, utilities, stormwater drainage, auxiliary buildings, fire safety, infestation control, emergencies and public bathing.[3]

The Applicant should provide testimony regarding this condition.

(c) Outdoor storage of materials or equipment shall be prohibited except where the same is appropriate or necessary to the safety and/or reasonable function of the facility. *The Applicant should provide testimony regarding this condition.*

(d) No permanent residency shall be allowed within a campground facility. *Not applicable.*

(e) All requirements of § 330-185 as shall be satisfied

Section 330-185 Supplemental regulations for certain permitted uses.

(6) Public, nonproprietary campgrounds shall be subject to § 330-184D(5)(a), (c), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n) and (o), even when such standards are more restrictive than state law or rule, unless expressly preempted. In all other matters and respects, state law shall control.

(a) Outdoor storage of material or equipment in all front yards and buffer strips shall be prohibited, and, further all other outdoor storage shall be

prohibited unless the same is necessary for the operation of the campground and has been approved by the Planning Board. *The Applicant should provide testimony regarding this condition.*

(c) All outside lighting shall be installed so as not to cause glare onto adjoining buildings or properties or upon public streets or roads. *The Applicant should provide testimony regarding this condition.*

(e) Location. No campsite shall be less than 100 feet from any public right-of-way or from a project area line. No campsite shall be located less than 50 feet from the bank of any stream or within 50 feet of any shoreline or any area subject to periodic inundation from surface or subsurface water. *Testimony should be provided.*

(f) Campsite density and area. The density of campsites in a project area shall not exceed an average of 10 per acre on any given acre. Each campsite, including parking space, shall provide a minimum of 1,800 square feet of space. *The Applicant should provide testimony regarding this condition.*

(g) Campsite occupancy. Each campsite may accommodate only one camping unit occupied by the camper and party, provided that the number of occupants of the camper shall be limited to the manufacturer's specifications for sleeping accommodations of the camper. *Testimony should be provided.*

(h) Access roadways: vehicular and pedestrian.

[1] Access for camping vehicles and other vehicular traffic to the campgrounds shall be from an arterial interior access road of sufficient width for two camping vehicles to pass conveniently and constructed so as to minimize dust rust and mud holes in accordance with the standards approved by the Township Engineer. All other interior roads or drives shall, if possible, connect with the interior arterial road. Such other streets shall not be paved but shall be maintained with gravel surface and kept in passable condition at all times, and such roads and drives shall be of sufficient width to accommodate one camping vehicle. There shall be spaces provided at the side of such roads and drives as appropriate intervals to allow vehicles to pass. All such roads or drive shall be and remain private streets. *There is an interior access road that is approximately ten (10) feet in width connecting the glam camping area to Route 94. There appears to be one (1) area at the side of the interior road in the center of subject property to allow for vehicles to pass. The Applicant should provide testimony regarding this condition.*

[2] Every section within a project area shall have at least 100 feet of frontage on an interior arterial access road. *Testimony should be provided.*

(i) Sewage disposal. The applicant shall provide method of disposal for all sewage in accordance with all state and local health requirements. *It appears that the proposed septic tank is proposed for use with the glamping facility. The Applicant should provide testimony regarding this condition.*

(j) Surface drainage. All necessary drainage shall be provided as required by the Planning Board on the advice of the Board Engineer, which drainage shall be adequate considering the seasonal nature of use. *The Applicant should provide testimony regarding this condition.*

(k) Landscaping. Landscaping plans shall be submitted as part of the site plan review in both map and written form and shall indicate the types of trees and shrubs to be used. The Applicant should provide testimony regarding this condition.

(l) Access drives and paths. Individual access drives to each campsite and camper pads of crushed stone or gravel shall be constructed by the applicant. *Testimony should be provided.*

(m) Rules to be filed. All rules and regulations governing the use of the campground proposed to be established by the applicant or, in the case of condominiums, copies of the proposed master deed, association bylaws and facilities license agreement, shall be submitted to and approved by the Planning Board. Once approved by the Planning Board, no charges shall be made without Planning Board approval. *Testimony should be provided.*

(n) Statement of operator. The owner or operator of every campground shall file with the Township Clerk a statement giving the name, address and telephone number of the person principally responsible for the operation of said campground, to whom any complaints for violations of this chapter or any other ordinance of the Township can be referred for correction. The owner or operator shall immediately notify the Township Clerk of any change in the name, address or telephone number of said responsible person. *Testimony should be provided.*

(o) Power of attorney to accept process. Where the owner or operator of any campground is a nonresident of the County of Sussex or is a corporation or partnership having its principal place of business elsewhere than in the County of Sussex, said owner or operator shall file with the Township Clerk, and shall keep on file, a power of attorney authorizing the Township Clerk to accept service of process for and on behalf of said owner or operator. Any complaint or other legal process so served upon the Township Clerk, pursuant to said power of attorney to accept process, shall be deemed served upon the owner or operator, and the Township Clerk shall immediately forward such complaint or other legal process to the owner and/or operator at the address shown in the power of attorney, by certified or registered mail, return receipt requested. *Testimony should be provided.*

(7) Conference rooms in the C-1, C-2, C-3, CR, AET and TC Districts.

(a) A conference room shall be associated with and be part of an inn, lodge or bed-and-breakfast establishment. **Condition not met.**

(b) Parking requirements for the dominant use shall be adjusted upward by a ratio of one additional space per 30 square feet of conference room area or per three persons of design occupancy, whichever is greater. *The proposed conference room requires 14 parking spaces and 139 total spaces are provided. Condition met.*

(21) Restaurants in the AET District.

(a) The proposed site shall abut an arterial or collector street. *Condition met.*

(b) Off-street parking shall be provided as follows: one space for every three seats, plus one space per every bar seat. *No seating arrangements have been proposed. The Applicant should provide testimony regarding the proposed maximum number of seats.*

(c) All parking facilities shall be located at least 10 feet from a street or property line. *The parking facility is located approximately 15 feet from the property line. Condition met.*

(d) The architectural design of the facility shall be in accord with the prevailing character of the neighborhood and district and shall be complementary to historical or other desirable examples of local architecture. *The architectural design of the proposed barn conforms with agricultural architecture of the neighborhood and AET Agri-Eco Tourism Zone. Condition met.*

(e) Lot regulations.

[1] Minimum lot size: one acre. *Lot size is 67.116 acres. Condition met.*

[2] Minimum lot width: 150 feet. *Lot width is 686 feet. Condition met.*

[3] Minimum front yard setback: 50 feet. ***The existing frame barn front yard setback is 23.9 feet. Condition not met.***

[4] Minimum rear yard setback: 50 feet. *Proposed rear yard setback is 1,718 feet. Condition met.*

[5] Maximum building height: 35 feet. ***Proposed building height is 36 feet / 2 stories. Condition not met.***

[6] Maximum building coverage: 35%. *Proposed building coverage is 0.003%. Condition met.*

[7] Maximum lot coverage: 75%. *Proposed lot coverage is 0.045%. Condition met.*

(22) Retail sales, outdoor, in the AET District.

(a) The proposed site shall abut an arterial or collector street. Condition met.

(b) Off-street parking shall be provided as follows: one space per 120 square feet of indoor floor area, plus one space per 500 square feet of outdoor display area. *The proposed retail space requires 15 parking spaces, and 139 total spaces are provided. The Applicant should provide testimony regarding the outdoor display area.*

(c) The definition of "retail sales, outdoors" notwithstanding, only the outdoor display and sale of garden, landscaping and farm supplies, flowers, shrubs, plants, and produce, shall be permitted in these districts. *The Applicant should provide testimony regarding this condition.*

(d) All bulk requirements for the respective districts shall be satisfied, except that all outdoor sales items must be located at least 50 feet from the front yard property line and 25 feet from any side or rear yard property line. **Condition not met; the front yard is setback 8.2 feet where 50 feet is required, side yard setback is 23.9 feet where 25 feet is required and the height is 36 feet where 30 feet is required, which do not meet the zone requirements.**

E. **Parking:** According to Chapter 330 Land Development, Attachment 8 – Schedule D, the number of off-street parking spaces are required for the following uses mentioned below:

Use	Requirement	Required	Provided
Campground, Public	1 space per campsite 1 space per employee	# of campsites/employees are unknown	N/P
Restaurant	1 space per 3 seats 1 space per 1 bar seat	# of seats and bar seats are not provided	N/P
Conference Room	1 space per every 30 SF or 1 space per 3 persons of max. occupancy, whichever is greater	14	N/P
Galleries	1 space per 300 SF	5	N/P
Retail	1 space per 120 SF 1 space per 500 SF of outdoor display area	15	N/P
Total		TBD/@ 34	139

NP = Not Provided

TBD/@ = To be decided/estimate

The Applicant should provide a parking requirement detail specifying the number of parking spaces provided for each proposed use. Above is a partial list.

According to Section 330-76(B), each off-street parking space shall be designed to measure not less than 10 feet wide and not less than 18 feet deep. Spaces for

handicapped parking shall be a minimum of 12 feet wide and shall be located in the closest possible proximity to the building being served. Handicapped parking shall be otherwise provided in accordance with the requirements of the Americans with Disabilities Act. The Applicant is proposing off-street parking spaces with dimensions of 10 feet in width and 18 feet in length and handicapped spaces that are 10 feet in width and 18 feet in length. The size of the handicapped spaces do not comply with the ordinance. **A waiver is requested.**

According to Section 330-76(C), access aisles and drives for off-street parking areas shall be a minimum of 24 feet in width. The Applicant is proposing access aisles and drives with a minimum of 25 feet in width. This complies.

- F. **Loading:** According to Section 330-76(D), off-street loading spaces shall be a minimum of 12 feet in width and 40 feet in length, with a minimum of 15 feet of vertical clearance. The plans do not show existing or proposed loading areas. **The Applicant should testify the location and quantity of the loading space(s).**
- G. **Fences:** According to Section 330-178(C)(6), no fence, running substantially along a rear lot line, or approximately parallel thereto, or otherwise in a rear yard, shall exceed six feet in height measured from average grade corresponding to each eight-foot section of fencing.

The Applicant is proposing a six (6) foot tall privacy fence which complies. The Applicant is proposing a six (6) foot tall stockade fence around the dumpster enclosure which complies.

- H. **Landscape:** According to Section 330-72(A), landscaping shall be provided as an integral part of any site plan or subdivision design. Landscaping shall be conceived in a total pattern throughout the site, integrating the various elements of site design, preserving and enhancing the particular identity of the site, and creating a pleasing site character. Wherever possible and appropriate, existing natural features and vegetation shall be preserved in an effort to preserve the rural natural qualities of the Township's landscape. However, this provision shall not be construed to relieve the developer of responsibility in connection with the installation of necessary or suitable landscaping. Landscaping may include plant materials such as trees, shrubs, ground cover, perennials and annuals, and other materials such as rocks, water, sculpture, art, walls, fences and certain other man-made materials, provided that the same are of a distinct and high order of architectural quality. The Applicant is proposing to close one (1) of the existing access driveways and provide landscaping to fill the gap in order to direct traffic to one (1) main entrance and exist driveway between the existing sign and the Farm Store building. Additionally, a landscape buffer along the southern property line of the parking has been proposed.

7. **Criteria for Granting “C” Variances:** Variances can be granted by the Board, pursuant to N.J.S.A. 40:55d-70c where two provisions exist for the granting of bulk variances:

- i. The first provision for granting a “c” variance is under N.J.S.A. 40:55D-70c(1) where the Board must find whether there has been a showing of peculiar exceptional practical difficulties or exceptional undue hardship arising out of the exceptional narrowness, shallowness, or shape of a piece of property, or by reason of an extraordinary and exceptional situation uniquely affecting this specific piece of property or the structures lawfully existing thereon.
- ii. The second provision for granting a “c” variance is under N.J.S.A. 40:55D-70c(2) where the Board must find that the application relates to a unique situation on a specific piece of property, that the purposes of the MLUL would be advanced by the requested deviation, that the variance can be granted without substantial detriment to the public good, that the benefits of granting the variance outweigh any detriments and that the variance will not substantially impair the zone plan or ordinance. Under c(2), the Applicant should show that the proposal is a better zoning alternative to that which is permitted by the ordinance and provides benefits to the community as a whole, not just the applicant.
- iii. In both cases, the negative criteria must be met, which includes a showing that the proposed variances will not cause a substantial detriment to the public good (the neighborhood) or substantial impairment of the master plan and zoning.

8. **Criteria for Granting “D(1)” Variances:** The Applicant is requesting a “d(1)” use variance to permit the use of conference room, glamping and retail services on the subject property in the AET, Agri-Eco Tourism zone where the uses are not permitted. Variances can be granted by the Board pursuant to N.J.S.A. 40:55D-70d(1).

The Municipal Land Use Law (MLUL) sets forth the statutory positive and negative criteria for variance relief. It permits a Zoning Board of Adjustment to grant a “d(1)” variance in particular case and for special reasons. The courts have determined that special reasons include a showing by the Applicant that the granting of the variance will effectuate the intent and purposes of the MLUL and advance the goals and objectives of the local master plan. This is the “positive” criteria of the statute.

To address the “negative criteria,” the applicant must demonstrate the proposed variance can be granted without substantial detriment to the public good, nor will the granting of the variance substantially impair the intent and the purpose of the zone plan and zoning ordinance of the municipality.

Additionally, the Applicant for a use variance is obligated to address the Planning issues raised in the New Jersey Supreme Court case *Medici v. BPR, Co.*, 107NJ (1987). In accordance with the guidelines set forth in *Medici*, an applicant for a use variance must demonstrate that special reasons are satisfied by either showing that the proposed use is one which “inherently serves the public good” or that the proposed use promotes the general welfare because the proposed site is particularly suitable for that use. The *Medici* decision provides that in conjunction with the demonstration of the negative criteria, an enhanced quality of proof must be demonstrated to

indicate that the grant of requested use variance is not inconsistent with the intent of the Master Plan and Zoning Ordinance.

9. **Criteria for Granting “D(3)” Variances:** The application does not meet all of the conditional use criteria necessitating a conditional use variance. Criteria for granting a conditional use variance were established by Coventry Square v. Westwood Zoning Board of Adjustment, 138 N.J. 285, 293-294 (1994). The Coventry standards are in part similar to the flexible ‘c’ variance criteria.

- i. In Coventry, the court states that a conditional use application’s inability to meet all conditions does not necessarily negate the appropriateness of the site for the use. Coventry found that conditional uses are presumed by the zoning ordinance to be suitable for the site given certain conditions. Thus the applicant must show the site remains suitable despite the fact that all conditions of the use are not met. This is similar to the positive criteria of a “c” variance not the enhanced burden of proof required by the Medici case law.
- ii. The negative criteria are also somewhat varied from the Medici case law under Coventry; the Applicant needs to address the impacts associated with the conditions that cannot be met, not the entire proposal.

10. **Height Variance Pursuant to N.J.S.A. 40:55D-70(d)(6):** In conjunction with the proposal to utilize the existing barn as a two-story structure with a height of 36 feet, where 30 feet is permitted, a height variance is also required pursuant to N.J.S.A. 40:55D-70d(6) to permit a height in excess of the 10 feet or 10% of what is permitted.

- i. The less stringent review standards of Coventry are extended for consideration of height variances requiring the Applicant to show, as noted above, that the site remains suitable for the use despite the additional height and that any impacts from the additional height are offset by the positive aspects of the use.
- ii. Additionally, height variances were addressed in Grasso v. Borough of Spring Lake, 375 N.J. Super. 41, 51 (App. Div. 2004). In the Grasso case, the court found that the “special reasons” for the grant of the variance must be tailored to the reasons for the height restrictions in the ordinance. In essence, the Applicant must show that the problem the height requirement was meant to address can still be addressed with a greater height proposed on the site.
- iii. In both cases, the Applicant needs to address the two-pronged negative criteria showing that there is no substantial detriment to the public good or harm to the zoning plan or zone ordinance of the Township. In these cases, however, the negative criteria are limited to impacts from the increased height, not the use as a whole. The planning analysis should address the nearby Mountain Creek Resort, residences, and surrounding businesses.

Very truly yours,



Jessica C. Caldwell, P.P., A.I.C.P., L.E.E.D. - G.A.
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Vernon Land Use Board Planner

cc: Via E-Mail Only

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