

Borough of Red Bank

DEPARTMENT OF PLANNING AND ZONING

90 Monmouth Street
Red Bank, NJ 07701

Donna Smith Barr
Director

Tel: (732) 530-2752
Fax: (732) 530-2766
Email: dbarr@redbanknj.org

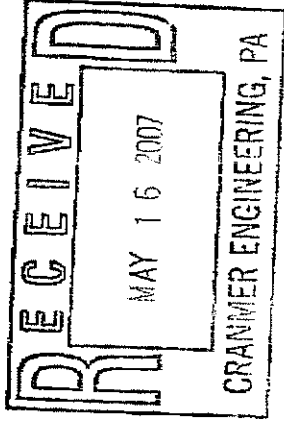
DENIAL OF DEVELOPMENT PERMIT

DATE: May 15, 2007

TO: Brian Luoma, P.E.
Cranmer Engineering

FROM: Donna Barr, Director, Planning & Zoning

RE: RB Monmouth & RB West LLC
Block 42, Lots 1,2,2.01,3,4,19,20,21
#8255




Your application to construct 20 dwelling units, 17,300 s.f. of retail space and 9,200 s.f. of office space in two detached buildings which are connected by an underground parking garage at the above referenced properties have been reviewed for compliance with the Red Bank Planning & Development Regulations.

The properties are located in the BR-1 Zone (Lots 1,2,2.01,3,4) and the BR-2 Zones (Lots 19, 20, 21). Prior to issuance of a Development Permit, it will be necessary to obtain major site plan approval, and a "d" variance for residential density from the Red Bank Zoning Board of Adjustment. The submission of complete floor plans showing gross floor area including the parking garage is required, to determine if floor area ratio requirements are satisfied. Additional details showing all rooms and dimensions for the residential apartments are also required. It appears that bulk "c" variances are required for parking and front setback (Monmouth, West). Further review of the complete plans may reveal that additional variances are needed.

This office is in receipt of two checks in the amount of \$1000.00 each and an escrow agreement form. Please provide an Intent to Proceed Form to Mary Kouvel, Zoning Board Secretary.

If you do not agree with this decision and wish to appeal, notice of an appeal must be filed with the Red Bank Zoning Board of Adjustment within 20 days of the date of this notice.

C: Construction Official
Zoning Board


Donna Smith Barr
Director, Planning & Zoning

WAYNE J. PECK

ATTORNEY AT LAW, L.L.C.
684 NORTH BEERS STREET
HOLMDEL, NEW JERSEY 07733

E MAIL: PECKLAWNJ@AOL.COM

(732) 308-3600

FAX: (732) 888-1416

May 16, 2007

File No.: 3625

Donna Smith Barr
Director, Planning and Zoning
Borough of Red Bank
90 Monmouth Street
Red Bank NJ 07701

Re: Application of R B Monmouth, L.L.C.
Lots 1, 2, 2.01, 3 and 4 in Block 42, Red Bank
Application of R B West, L.L.C.
Lots 19 and 20 in Block 42, Red Bank

Dear Ms. Smith Barr:

Please be advised that this office represents the above named applicant. I am in receipt of your letter of May 15, 2007 addressed to Brian Luoma, P.E.

You letter contains a factual error and I write at this time to ask that the plans be reviewed again in view of the error. In your letter you state: "Your application to construct 20 dwelling units, 17,300 s.f of retail space and 9,200 s.f. of office space in two detached buildings which are connected by underground parking garage"

In fact, the application is to construct the identified units and space in five (5) detached buildings, not two (2) detached buildings as your letter states. A review of the plans will confirm that each of the five buildings is a separate architectural unit. One of the variances sought is to allow a zero distance between buildings. However, each of the five buildings is a separate building.

The Municipal Land Use defines a "building" to mean "a combination of materials to form a construction adapted to permanent, temporary, or continuous occupancy and having a roof." Five such buildings are proposed. There exist no common walls between any proposed building, making each a separate structure for architectural, engineering and land use purposes.

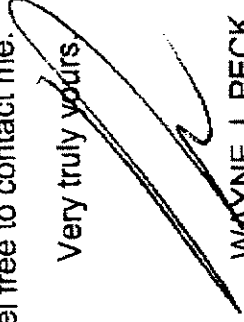
Now that the apparent error has been noted, please have the plans review again as it is clear that no density or other variance within the jurisdiction of the Zoning Board is needed in conjunction with this application.

WAYNE J. PECK
ATTORNEY AT LAW, L.L.C.

Donna Smith Barr
May 16, 2007
Page 2.

If you have any questions, please feel free to contact me.

Very truly yours,



WAYNE J. PECK
Managing Member

WJP/msw

Via Fax - 732-530-2766

cc: Brian Luoma, P.E. - fax - 732-212-8910

RB Monmouth, L.L.C.; RB West, L.L.C. - fax - 732-531-1047



Borough of Red Bank

DEPARTMENT OF PLANNING AND ZONING

90 Monmouth Street
Red Bank, NJ 07701

Donna Smith Barr
Director

Tel: (732) 530-2752
Fax: (732) 530-2766
Email: dbarr@redbanknj.org

May 18, 2007

Wayne Peck, Esq.
684 North Beers Street
Holmdel, NJ 07733

Re: RB Monmouth LLC/RB West LLC
Block 42, Lots 1, 2, 2.01, 3, 4, 29, 20, 21
#Z8255

Dear Mr. Peck,

I am in receipt of your letter dated May 16, 2007. My decision stands that a density variance is required for the above referenced application. If you do not agree with the decision, an appeal should be filed with the Zoning Board of Adjustment.

Sincerely,

Donna Smith Barr
Director, Planning & Zoning

C: S. Sickels, Borough Admin.
K. Kennedy, Zoning Board Atty
Zoning Board of Adjustment



PASSMAN ERCOLINO

ARCHITECTS, P.C.

May 22, 2007

Ms. Donna Smith Barr
Director, Planning & Zoning
Borough of Red Bank
90 Monmouth Street
Red Bank, NJ 07701

Re: RE Monmouth and RB West LLC application
Block 42, Lots 1, 2, 013, 4, 19, 20, 21
Red Bank, New Jersey

Dear Ms. Smith Barr:

I am in receipt of your Denial of Development Permit letter dated May 15, 2007. You have referred the project as two detached buildings connected by an underground parking garage. The project is actually comprised of five separate buildings which can survive on their own without any of the amenities of the other buildings. Much like many adjacent buildings up and down Broad Street, the walls between adjacent buildings are separate masonry walls completely unattached. In other words if one building were to be demolished, it would not affect the ability to use the other buildings.

If you have any questions or comments, please feel free to contact me.

Sincerely,

Anthony J. Ercolino, AIA

Cc via fax: Mr. George Coffenberg Owner 732-531-1047
Mr. Kevin Kennedy, Zoning Board Attorney for Red Bank 732-530-2766
Mr. Richard Kosinski, Borough Engineer for Red Bank 732-530-2766
Mr. Wayne Peck, Esquire 732-888-1416
Mr. Bryan Luoma, Cranmer Engineering 732-212-8910



Cramer
Engineering

Integrity | Innovation | Excellence

2007-015-048
May 22, 2007

VIA FACSIMILE AND MAIL

Donna Barr
Director, Planning and Zoning
Borough of Red Bank Planning Board
90 Monmouth Street
Red Bank, NJ 07701

**RE: RB MONMOUTH, LLC
DEVELOPMENT PERMIT APPLICATION
BLOCK 42 LOTS 1, 2, 2.01, 3, 4, 19, 20 & 21 – MONMOUTH STREET
BOROUGH OF RED BANK, MONMOUTH COUNTY, NEW JERSEY**

Dear Ms. Barr:

Please be advised that I am in receipt of your Denial of Development Permit dated May 15, 2007. It was noted that you reference two (2) detached buildings in your correspondence, however this project was designed as five (5) separate buildings. Given the complexity of this matter, I have enclosed additional documentation in support of our position.

To clarify that the buildings will be of separate construction please note that the proposed buildings will be separated by fire walls and will be designed to provide structural stability regardless of any collapse of adjacent structures as required by the U.C.C..

The adjacent fire walls will be designed as party walls between the separate buildings as required by code. To assist you in your review of I have attached a reference to the 2006 International Building Code which indicates the following in Section 705.1.1 Party Walls

“Fire Walls serving as party walls define separate buildings on each side.”

I trust the above information shall further clarify the proposed application and allow further consideration of the need for a density variance. Based upon the above, it would appear that the bulk variance for building separation may be required; however a density variance shall not be necessary, thus this matter shall properly fall under the jurisdiction of the planning board.



Cranmer
Engineering

Integrity | Innovation | Excellence

2007-015-048
May 11, 2007
Page 2 of 2

Should you have any questions or require additional information, please do not hesitate to contact me.

Very truly yours,

CRANMER ENGINEERING, P.A.

Bryan E. Luoma, P.E.
Project Manager

BEL/tg
Enc.

Cc: Richard Kosenski, P.E., *via facsimile only (w/enclosures)*
George Coffenberg, *via facsimile only (w/enclosures)*
Wayne J. Peck, Esq., *via facsimile only (w/enclosures)*
Anthony J. Ercolino, AIA, *via facsimile only (w/enclosures)*

WAYNE J. PECK

ATTORNEY AT LAW, L.L.C.
694 NORTH BEERS STREET
HOLMDEL, NEW JERSEY 07733

E-MAIL: PECKLAW.NJ@AOL.COM

(732) 308-3600

FAX: (732) 888-1416

May 23, 2007

File No.: 3625

Donna Smith Barr
Director, Planning and Zoning
Borough of Red Bank
90 Monmouth Street
Red Bank NJ 07701

Re: Application of R B Monmouth, L.L.C.
Lots 1, 2, 2.01, 3 and 4 in Block 42, Red Bank
Application of R B West, L.L.C.
Lots 19 and 20 in Block 42, Red Bank

Dear Ms. Smith Barr:

The purpose of this letter is twofold.

First, it is to follow up our telephone conversation that was triggered by your letter of May 18, 2007. In that letter, you stated that you stood by your prior determination that the above application was within the jurisdiction of the zoning board of adjustment despite my letter to you of May 16, 2007. In our conversation, I pointed to that portion of your letter of May 18, 2007 advising that there was an avenue of appeal to the zoning board if my client took exception to your decision. As I pointed out, at no point has my client been provided with the basis of your determination that jurisdiction was with the zoning board. You agreed that you would provide me with such an explanation so that an informed decision could be made as to whether my client and its professionals agreed or disagreed with the determination. I await your letter.

The second purpose of this letter is to ascertain the procedure to use in the event a decision is made to appeal your determination. In some municipalities in which I have appeared, such an appeal is triggered by a letter to the zoning board stating that an appeal is being filed and a hearing is scheduled. In other municipalities, there is a formal application form, together with appropriate fees.

Because I do not know the appropriate procedure in Red Bank, I ask that you enlighten me. If a formal application is needed, I also request that you forward to me such a form for our possible use.

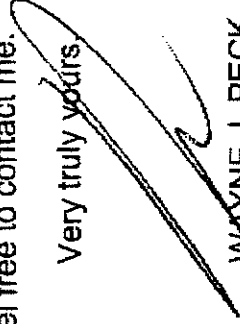
I thank you for your continuing assistance in this matter.

WAYNE J. PECK
ATTORNEY AT LAW, L.L.C.

Donna Smith Barr
May 16, 2007
Page 2.

If you have any questions, please feel free to contact me.

Very truly yours,



WAYNE J. PECK
Managing Member

WJP/msw

Via Fax - 732-530-2766

cc: Brian Luoma, P.E.- fax - 732-212-8910

RB Monmouth, L.L.C.; RB West, L.L.C. - fax - 732-531-1047

BEACON PLANNING & CONSULTING SERVICES, L.L.C.

Colts Towne Plaza, Suite 207
41 State Highway 34 South
Colts Neck, New Jersey 07722

Tel. (732) 845-8103
Fax (732) 845-8104

May 24, 2007

Donna Smith-Barr
Director, Planning and Zoning
Borough of Red Bank
90 Monmouth Street
Red Bank, New Jersey 07701

re: RB Monmouth and RB West, LLC
Red Bank, New Jersey
Our file #A06136

Dear Ms. Smith-Barr:

This is in response to your letter to Bryan Luoma, dated May 15, 2007, and your subsequent letter to Wayne Peck, dated May 18, 2007.

The key issue at hand essentially concerns the number of buildings proposed for the subject property. Depending on how this issue is interpreted, the density of the project either conforms to the ordinance (and thus may proceed before the Borough Planning Board), or the density does not conform (and the application must be heard by the Borough Zoning Board of Adjustment).

With respect to this issue, Anthony Ercolino's letter of May 22, 2007, points out that the proposed development consists of five separate buildings. Although these buildings are proposed to be joined, each will still function as a separate building, with separate entrances, separate utility services, etc. While it may appear that the proposed development consists of two buildings, the proposal actually calls for five separate buildings. Three of the buildings will be joined as one group, and the remaining two buildings will be similarly joined. The buildings have been joined so that the project will be consistent with the area's prevailing urban design, which largely consists of buildings that do not have front or side yard setbacks. The result is that the proposed project will reflect the character of development in the immediately surrounding neighborhood, i.e., long, traditional "street walls" that are generally associated with cities and urban areas. Each of the buildings can be constructed with setbacks between them, but as Tricia Rumola suggests in her letter, dated May 11, 2007, this would result in a "disconnect." The project team also believes this would create an aesthetic anomaly that would detract from the overall aesthetics of the area.

With respect to density, it is our position that the proposed project conforms to the requirements of the Borough zoning regulations because the project consists of five building. Both the BR-1 and BR-2 zoning districts in which the subject property is located permit up to four upper story apartments in a building. The proposed project, which consists of five separate buildings with four apartments in each building, is therefore consistent with the use provisions of the BR-1 and BR-2 zoning districts in this regard.

Further, the ordinance does not prohibit more than one use on the subject property, nor does it prohibit more than one building at the property (except for single-family and two-family residences). Thus, the proposed number of buildings at the property is consistent with the provisions of the Borough's zoning regulations.

Based on the above, please reconsider your determination that the RB Monmouth and RB West, LLC, application requires a "d(5)" variance. Instead, we believe that the application only requires the requested "c" variances, and therefore rightly should be heard by the Borough Planning Board.

Please call me if you have any questions.

Sincerely,

Victor Furmanec, PP, AICP

cc: George Coffenberg
Andrew W. Janiw, PP, AICP
Wayne J. Peck, Esq.
Kevin Kennedy, Esq.
Richard Kosinski, PE



Borough of Red Bank

DEPARTMENT OF PLANNING AND ZONING

90 Monmouth Street
Red Bank, NJ 07701

Donna Smith Barr
Director

Tel: (732) 530-2752
Fax: (732) 530-2766
Email: dbarr@redbanknj.org

May 29, 2007

Wayne Peck, Esq.
684 North Beers Street
Holmdel, NJ 07733

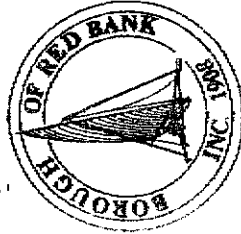
Re: RB Monmouth LLC/RB West LLC
Block 42, Lots 1, 2, 2.01, 3, 4 - BR-1 Zone
Block 42, Lots 19, 20, 21 - BR-2 Zone
#Z8255

Dear Mr. Peck,

In response to your letter dated May 23, 2007, and subsequent correspondence from Mr. Luoma and Mr. Ercolino, I have reviewed your concerns with Borough professionals.

The Denial of Development Permit #Z8255 is based on Section 25-10.14 (BR-1 Zone) and Section 25-10.19 (BR-2 Zone) which permits "dwelling apartments uses on floors above the street level floor; provided, however, that there shall not be more than two (2) such dwelling apartments on each floor, or more than a total of four (4) such dwelling apartments in any building. Each dwelling apartment shall have a minimum of six hundred (600) square feet of habitable floor area, and shall have no more than two (2) bedrooms."

The plans submitted do not comply with the ordinance, since the proposal exceeds the 4 apartments per building requirement. The above ground structures are supported and connected by an underground parking garage. In fact, the plans show that the underground parking garage is, in effect, a single foundation supporting two separate structures. It does not appear that there are five separate buildings as defined in the ordinance. Rather than a density variance, a "d" variance is required for a use not permitted. As you are aware, any interpretation of the ordinance lies within the jurisdiction of the Zoning Board of Adjustment. Please consider this letter, an addendum to the Denial of Development Permit #8155, issued May 15, 2007. A determination may be made that additional variances are required; upon further review of the plans and additional information that was requested in the May 15th Denial letter.



Borough of Red Bank

It is my understanding that you have been advised of the procedures for an appeal of the decision to the Zoning Board. I hope that this letter provides you with the clarification that you requested.

Sincerely,

Donna Smith Barr
Director, Planning & Zoning

C: S. Sickels, Borough Admin.
Zoning Board of Adjustment



Mr. Pat Menna
Via Fax 732-747-8814

5/30/07

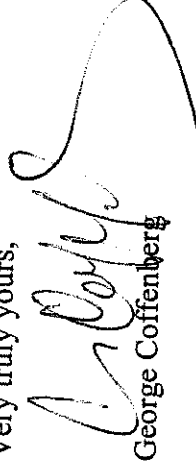
Dear Mr. Menna,

Last week Kevin Kennedy told my attorney Wayne Peck that Donna Barr would send a letter to him by the end of the day Thursday May 24th explaining Red Bank's position on why my application needs zoning board approval and not planning board approval. All of my experienced professionals who have been involved in other approvals in Red Bank are stating that this is clearly a planning board issue as we meet all of the requirements of the zoning issues and the only variances we seek are for a front yard setback and distance between buildings variance. We have notified you and the zoning office with all of the information supporting our position including the UCC definition of what a building is. The town is saying we have created 2 buildings and we have given overwhelming evidence that it is 5 buildings situated on 8 individual taxed pieces of property which in theory could support 8 buildings.

You are not only the mayor of the town but an experienced real estate attorney and you must be aware that what they are doing is wrong. I would appreciate you correcting Rich Kosenski, Kevin Kennedy and Donna Barr immediately. They are obviously having a difficult time supporting their claim that this is a zoning board issue, otherwise we would have received the letter last week. I am not sure what their agenda is but I do know their actions warrant an investigation. You have previously told me you want to know about wrong doing in your administration and I have notified you several times about the problem I am having with Rich Kosenski and Kevin Kennedy. We all know that something is incorrect and you cannot just look the other way and say you do not know about the problem when I am repeatedly bringing the problem to your attention.

Please contact me at 732-531-1122x226 or Wayne Peck at 732-308-3600 to let us know why the town is treating me improperly with this application. Thank you.

Very truly yours,


George Coffenberg



Borough of Red Bank

ADMINISTRATIVE DIVISION

90 Monmouth Street

Red Bank, NJ 07701

Pasquale Messina
Mayor

Tel: (732) 530-2751
Fax: (732) 747-8814
E-mail: pimenlaw@aol.com

Via Facsimile
732-531-1047

May 30, 2007

George Coffenberg

Dear Mr. Coffenberg:

I am in receipt of your letter and as I have previously informed you, based upon the type of information forwarded, I am not in a position to answer your questions. I have referred all of these matters to the Borough Attorney. In addition, since you are represented by counsel, I cannot legally deal with you outside of your attorney and will not do so.

Thank you.

Very truly yours,

PASQUALE MENNA

PM:mng

cc: Thomas Hall, Esq., by fax
Wayne Peck, Esq., by fax



Borough of Red Bank

DEPARTMENT OF PLANNING AND ZONING

90 Monmouth Street
Red Bank, NJ 07701

Coffenberg 737-531-1047

Donna Smith Barr
Director

Tel: (732) 530-2752
Fax: (732) 530-2766
Email: dbarr@redbanknj.org

June 14, 2007

Wayne Peck, Esq.
684 North Beers Street
Holmdel, NJ 07733

Re: RB Monmouth LLC/RB West LLC
Block 42, Lots 1, 2, 2.01, 3, 4, 20, 21

Dear Mr. Peck,

I am in receipt of revised plans, prepared by CB Cranmer Engineering, dated 5/10/07, revised 6/8/07, consisting of Sheets 1 of 15, 3 of 15 and 5 of 15 regarding the above referenced properties. As you are aware, there have been several different versions of plans submitted for review. The prior Development Permit Application was under appeal at the Zoning Board of Adjustment but has been withdrawn. For record keeping purposes, and since another review is required, a Development Permit Application should accompany the new submission.

I am returning the plans submitted by Mr. Luoma, since information is insufficient to properly review the application. Kindly submit the enclosed Development Permit application, along with complete site plans, floor plans, and elevation drawings of the revised project.

Sincerely,



Donna Smith Barr

Director, Planning & Zoning

C: S. Sickels, Borough Admin/Const Off
R. Kosaski, Borough Engineer

WAYNE J. PECK

ATTORNEY AT LAW, L.L.C.
684 NORTH BEERS STREET
HOLMDEL, NEW JERSEY 07733

E MAIL: PECKLAWNJ@AOL.COM

(732) 308-3600

FAX: (732) 888-1416

June 18, 2007

File No.: 3625

Donna Smith Barr
Director, Planning and Zoning
Borough of Red Bank
90 Monmouth Street
Red Bank NJ 07701

Re: Application of R B Monmouth, L.L.C.
Lots 1, 2, 2.01, 3 and 4 in Block 42, Red Bank
Application of R B West, L.L.C.
Lots 19 and 20 in Block 42, Red Bank

Dear Ms. Barr:

I am in receipt of your letter of June 14, 2007, together with enclosures which I am returning herewith. There seems to be some confusion with the above matter, and I hope this letter will straighten out that confusion.

In your letter, you state that the "prior" application was under appeal, and that appeal has been withdrawn. This is not completely accurate.

A determination was made by your office that the filed application was within the jurisdiction of the Zoning Board. The only thing that was appealed was the jurisdictional determination. Now, revised sheets 1, 3 and 5 of the CE Cranmer Engineering plans have been submitted. Everything else concerning the plans, the balance of 12 sheets of that plan (which creates the complete site plan), the floor plans and elevations remain unchanged.

You further state that "another review is required." As far as I am aware, the only review that had occurred was to determine jurisdiction. I agree that a new jurisdictional review must take place. However, funds have been paid to cover those costs. There is nothing new about the application, other than the fact that sheets 1, 3 and 5 are revised. It certainly is not unusual for revisions to be made to plans at all steps of the application process. That does not, however, make the application a new application. Therefore, there is no reason for the filing of a new application and it is our position that the Borough has everything required pursuant to the Ordinance to continue this application, which bear number Z8255 (which number I understand may change when the matter is referred to the Planning Board).

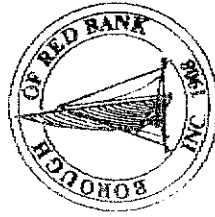
WAYNE J. PECK
ATTORNEY AT LAW, L.L.C.

Donna Smith Barr
June 18, 2007
Page 2.

If there are any further issues that need to be resolved, please feel free to contact me.
Very truly yours,

WJP/msw
Enclosure
cc: client
Bryan Luoma, PE

WAYNE J. PECK
Managing Member



Borough of Red Bank

DEPARTMENT OF PLANNING AND ZONING

90 Monmouth Street
Red Bank, NJ 07701

Donna Smith Barr
Director

June 27, 2007

Wayne Peck, Esq.
684 North Beers Street
Holmdel, NJ 07733

Re: RB Monmouth LLC/RB West LLC
Block 42, Lots 1, 2, 2.01, 3, 4, 29, 20, 21

Dear Mr. Peck,

I am in receipt of revised plans, prepared by CE Cramer Engineering, dated 5/10/07, revised 6/8/07, consisting of Sheets 1 of 15, 3 of 15, and 5 of 15, which have been re-submitted and received by this office on June 21, 2007. Your letter dated June 18, 2007, explains that the balance of the 17 sheets of previously submitted plans remain unchanged. I will accept the plans as a revision to Development Permit #8255, and have reviewed same.

The revisions do not change my decision that the application remains within the jurisdiction of the Zoning Board for a use "d" variance for a use not permitted in the zone. I do not agree that the revisions, consisting of a one-inch wall separation and the relocation of the parking structure, constitute the creation of five separate buildings in accordance with the Red Bank Planning & Development Regulations. Upon application to the Zoning Board, complete floor plans of the parking structure and the foundations and/or basement(s) should be submitted for further review.

As you are aware, you may exercise your rights to an appeal of the decision before the Zoning Board of Adjustment within 20 days of this decision.

Sincerely,

Donna Smith Barr
Director, Planning & Zoning

C: S. Sickle, Borough Admin/Const Off
R. Kosenski, Borough Engineer
T. Hall, Esq., Asst. Borough Atty

Tel: (732) 530-2752
Fax: (732) 530-2766
Email: dbarr@redbanknj.org

WAYNE J. PECK

ATTORNEY AT LAW, L.L.C.

684 NORTH BEERS STREET

HOLMDEL, NEW JERSEY 07733

E MAIL: PECKLAWNJ@AOL.COM

(732) 308-3600

FAX: (732) 868-1416

June 28, 2007

File No.: 3625

Donna Smith Barr
Director, Planning and Zoning
Borough of Red Bank
90 Monmouth Street
Red Bank NJ 07701

Re: Application of R B Monmouth, L.L.C.
Lots 1, 2, 2.01, 3 and 4 in Block 42, Red Bank
Application of R B West, L.L.C.
Lots 19 and 20 in Block 42, Red Bank

Dear Ms. Barr:

Thank you for your letter of June 27, 2007 concerning the above application. I have had the opportunity to review your letter and request some additional information so that I may properly advise my client.

In your letter you state "the application remains within the jurisdiction of the Zoning Board for a use "d" variance for a use not permitted in the zone." As I understand the application, three uses are proposed; commercial retail space is proposed, office commercial space is proposed and residential use is proposed. Please advise which of these three proposed uses is "a use not permitted in the zone."

You further state that "I do not agree that the revisions consisting of a one-inch wall separation and the relocation of the parking structure constitute the creation of five separate buildings in accordance with the Red Bank Planning & Zoning Regulations." Initially, please be advised that the one-inch separation is not a revision. Each of the plans submitted in connection with this application contained the one-inch separation between buildings.

Clearly, the parking deck must be separate from any other building as that structure is as physically separated from any other building as is a detached garage separated from a single family home. Therefore, I must conclude that your position that something about the plan is contrary to the Red Bank Planning & Zoning Regulations must relate to the one-inch separation between what the applicant contends are the five (5) other buildings, but what you apparently feel are only two separate buildings. Please advise me as to how much separation is required

WAYNE J. PECK
ATTORNEY AT LAW, L.L.C.

Donna Smith Barr
June 28, 2007
Page 2.

between buildings pursuant to the Red Bank Planning & Zoning Regulations to create separate buildings. Your letter implies that one-inch is not enough, so the application needs to know how many inches are sufficient. Your citation to the specific portion of the code would be helpful in allowing me to instruct my client and its professionals accordingly.

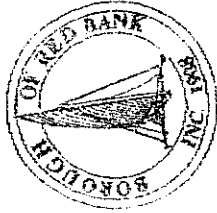
Of course, the applicant does not contend that the proposed building separation is that required under the Red Bank Planning & Zoning Regulations. It is recognized that the bulk standard is fifteen feet. That is why the applicant is seeking a variance. However, being only a bulk variance, such relief in this situation is exclusively with the Planning Board.

As always, I thank you for your continuing cooperation and assistance. Of course, if you have any questions, please feel free to contact me.

Very truly yours,

WJP/msw
Via Fax - 732-530-2766
cc: clients
Bryan Luoma, PE
Andrew Janiw, PP
Anthony Ercolino

WAYNE J. PECK
Managing Member



Borough of Red Bank

DEPARTMENT OF PLANNING AND ZONING

90 Monmouth Street
Red Bank, NJ 07701

Donna Smith Barr
Director

Tel: (732) 530-2752
Fax: (732) 530-2766
Email: dbarr@redbanknj.org

July 6, 2007

Wayne Peck, Esq.
684 North Beers Street
Holmdel, NJ 07733

Re: RB Monmouth LLC/RB West LLC
Block 42, Lots 1, 2, 2.01, 3, 4, 29, 20, 21

Dear Mr. Peck,

Your letter dated June 28, 2007, requests further clarification of my previous correspondence regarding the above referenced application. I have stated that a "d" variance is required from the Zoning Board for a use not permitted (Sections 25-10.14 and 25-10.19). Based on the plans submitted, it does not appear that they are in compliance with the requirements of 4 apartments per building, as defined in the Planning and Development Regulations. It also remains unclear if floor area ratio requirements or height requirements have been satisfied since complete architectural plans showing the revised foundation/basement/roof(s) have not been submitted to date. I am unable to comment further based on the information submitted.

I have been advised that you have appealed the determination to the Zoning Board of Adjustment. Any requests for interpretations of the definitions, intent of the ordinance, or clarification of the ordinance should be addressed to the Zoning Board of Adjustment.

Sincerely,

Donna Smith Barr

Director, Planning & Zoning

- S. Sickels, Borough Admin/Const Off
- R. Kosenski, Borough Engineer
- T. Hall, Esq., Asst. Borough Atty

July 12, 2007

Ms. Donna Smith Barr
Director, Planning & Zoning
Borough of Red Bank
90 Monmouth Street
Red Bank, NJ 07701

Re: RB Monmouth and RB Wood LLC application
Block 42, Lots 1, 2, 013, 014, 020, 21
Red Bank, New Jersey

Dear Ms. Smith Barr:

I am in receipt of your July 6, 2007 letter to Mr. Wayne Peck. Since my last letter to you on June 5, 2007 the concept of the buildings has changed in an effort to simplify the application. The five separate buildings will now be constructed as slab on grade buildings with no basements and with a minimum of 1" between them, much like many buildings built in Red Bank over the last 100 years. In a previous letter you referred the project as one building because of the underground parking garage. This is no longer the case. The parking area will be completely independent of the newly proposed buildings. As stated in my previous letter each building can survive on it's own without any of the amenities of the other buildings. The plans will be made to comply with the height requirements of each of the B/R-1 and B/R-2 zones and will not exceed five stories / 55' in the B/R-1 zone or three stories / 40' in the B/R-2 zone. The roof of each building will not be used for any usable space (roof gardens, recreation area, etc.). As for the F.A.R. please refer to the previously submitted Cranmer Engineering site plan dated June 8, 2007 which indicates an F.A.R. of 1.39 for the entire site, where 1.75 is allowed.

If you have any questions or comments, please feel free to contact me.

Sincerely,

Anthony J. Ercolino, AIA

Cc via fax: Mr. George Coffey, Building Owner 732-531-1047
Mr. Kevin Kennedy, Zoning Board Attorney for Red Bank 732-530-2766
Mr. Richard Kosinski, Borough Engineer for Red Bank 732-530-2766
Mr. Wayne Peck, Esquire 732-888-1416
Mr. Bryan Luoma, Cranmer Engineering 732-212-8910