

RESOLUTION
Borough of Butler
Planning Board
In the Matter of Ceruzzi-Butler LLC
Application Number SP 03-38
Decided on June 26, 2003
Memorialized on August 14, 2003
Preliminary Site Plan Approval
With Variances And Design Waivers

WHEREAS, Ceruzzi-Butler LLC (hereinafter referred to as the "Applicant") has made application to the Butler Planning Board (hereinafter referred to as the "Board") for preliminary site plan approval, together with variances and design waivers, in order to construct a total of two (2) retail commercial buildings on the subject property, as well as to construct site improvements and other site amenities normally associated with the proposed use of the subject property, known as Lots 124 and 124.01 of Block 80, as shown on the Tax Map of the Borough of Butler, which is more specifically located at Route 23 North and which is located in the HC-2 (Highway Commercial) Zone; and

WHEREAS, public hearings were conducted on May 8th, June 3rd, June 12th and June 26th, 2003 with regard to this application; and

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

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

NOW THEREFORE, the Planning Board makes the following findings of fact and conclusions of law based on evidence presented at the public hearing, at which a record was made.

1. Although the original application before the Board was a request by the Applicant for both preliminary and final site plan approval, during the course of the hearing the Applicant amended the application to now request preliminary site plan approval, together with variances and design waivers, to develop the subject property in Butler and, additionally, continue with the full development of the project on the adjoining properties located in the Borough of Kinnelon. It should be noted that the boundary line between the Borough of Butler and the Borough of Kinnelon bisect the property approximately in the middle. The Applicant is seeking to construct two (2) retail commercial buildings which combine for a total of approximately 185,173 square feet. A Lowe's Home Center is proposed for the Butler portion of the subject property and will be a total of 161,673 square feet in size. The Home Center itself is proposed at 134,574 square feet with the garden center, approximately half of which is proposed to be located in Kinnelon, to be approximately 27,099 square feet in size. Additionally, a Borders Bookstore, or a similar dry goods retailer, which is proposed to be entirely within Kinnelon, will be approximately 23,500 square feet in size. The subject property, which is located in both Butler and Kinnelon, has a total area of 25.08 acres, of which 13.76 acres are in Butler with the remainder in Kinnelon. The site in Butler is located in the HC-2 (Highway Commercial Zone District) and fronts on Route 23 North in Kinnelon and Morse Avenue in Butler. Associated site improvements for the entire project include 720 parking spaces, stormwater facilities, extensive retaining walls and site landscaping. The proposed use is a permitted use in the zone.

2. The Applicant has requested variances and design waivers in connection with the preliminary site plan approval. In this regard the relief requested is as follows:

- (a) Section 143-118 of the Land Use Ordinances of the Borough of Butler provide for a maximum permitted building coverage in the HC-2 Zone of 20%, where the Applicant is proposing 23.5%.
- (b) Section 143-175F(2) permits a maximum number of wall signs of one (1), where a total of three (3) are proposed. Further, the maximum sign area permitted is 5% of the building façade or 50 square feet, whichever is smaller, however the Applicant is proposing a total of 426.9 square feet. The proposed signs for Lowe's Home Center are as follows:
- (1) "Lowe's" - 285.5 square feet,
 - (2) "Garden Center" - 81 square feet,
 - (3) "Indoor Lumber Yard" - 60.4 square feet.
- (c) Design waivers are required pursuant to Section 143-86F regarding off-street parking requirements. Based on the formula set forth in the ordinances a total of 703 parking spaces would be required within the Borough of Butler, whereas the Applicant is proposing a total of approximately 340 parking spaces, so long as the gross number of 720 parking spaces on the entire site remains intact.
- (d) Design waivers are required pursuant to Section 143-86D(1) which require a minimum parking space size of 10 feet by 20 feet, whereas the Applicant was originally proposing a parking space size of 9 feet by 18 feet, but which was amended during the hearings to a space of 10 feet by 18 feet.

- (e) A design waiver is required pursuant to Section 143-87C(2) with regard to a minimum landscaped buffer. The ordinance requires a minimum parking lot buffer of 25 feet, where the Applicant is proposing a buffer of 19.5 feet adjacent to the parking lot of the previously approved McDonald's located on Lot 124.02.
- (f) A design waiver is required pursuant to Section 143-89 with regard to lighting. The ordinance requires a maximum light fixture mounting height of 25 feet, where the Applicant is proposing fixtures at 35 feet.

3. The Board has received the following Reports from its consultants and has incorporated them by reference in the body of this Resolution:

- (a) Memorandums from Robert Catlin and Associates, Planning Consultants, dated February 13, 2003 and March 18, 2003.
- (b) Letter Reports from Darmofalski Engineering Associates, Inc., Board Engineers, dated February 6, 2003, April 2, 2003 and May 15, 2003.

4. Alfred Coco, a licensed engineer, land surveyor and planner, testified on behalf of the application. Significant for the purposes of this application Mr. Coco marked into evidence, among other exhibits, Exhibit "A-3" as amended to include a total of 720 parking spaces, 10 feet by 18 feet in size, and a circular truck turning radius at the northwest corner of the building. Exhibit "A-3" represents a colorized rendering of the original site plan proposed and which is the focus of the Board hearings. Mr. Coco indicated that he was familiar with the site and stated that it was approximately 25.08 acres in size and was located on the northbound side of Route 23 adjacent to Morse Avenue. The witness described the immediate area indicating that there are residential homes above the subject property to the North, and that the municipal boundary with

Kinnelon bisected the subject property that was intended to be utilized for the overall project. Mr. Coco stated that the existing front half of the site was "relatively flat" but that the rear half of the site was "steep", with rock outcroppings to the rear. He stated that there was an elevation difference from Route 23 to the rear of the subject property of anywhere between 70 to 100 feet, and that the site was traversed by several utilities and was partially the site of a former rubber plant.

Mr. Coco generally described the Applicant's proposed project, which description was consistent with that set forth earlier in this Resolution. He indicated that the Route 23 access to the site will be a right in/right out movement and that there would also be access to Morse Avenue as required by the Department of Transportation (DOT). The witness indicated that the Applicant was attempting to negotiate with McDonald's at the corner of Route 23 and Morse Avenue in order to provide shared access to Morse Avenue, however, at the time of this memorializing Resolution this shared access concept was uncertain. Mr. Coco stated that the project will be utilizing detention basins located in the southeast corner of the property in Kinnelon, and stressed that the proposed use was permitted in the zone.

From a planning perspective Mr. Coco generally discussed the proposed variances and design waivers being requested and offered his opinion that the proposed parking will be more than adequate for the use of the subject property for a Lowe's Home Center and a Borders Bookstore. The witness indicated that the Lowe's facility is purposely placed toward the rear of the subject property because of the rubber remediation located at the front of the property. He stated that the parking lot will also act as a seal in order to cap the former area of buried rubber. With regard to the Lowe's

Home Center itself, the witness commented that the building will be literally cut into the rock at the rear of the site and that there will be retaining walls ranging in height from 30 to 50 feet in the rear, in addition to retaining walls both in front of and along the side of the Lowe's structure. The edge of the Lowe's building itself will be located approximately 120 feet off the rear property line, and most water drainage will flow to the detention basins which will be located in the southeast corner of the subject property. The basins will have grass bottoms.

Mr. Coco indicated that all utilities are available for the site and will be adequate to serve all anticipated needs. The proposed lighting will be a "shoebox" fixture which will focus light downward with very little, if any, glare spilling onto adjoining properties. The witness also discussed landscaping and indicated that trees, evergreens and shrubs will be found in significant numbers on the subject property. Parking stalls sizes were discussed as were retaining walls. The retaining walls are proposed to be modular concrete block and, at the rear of the property, there will be safety fencing at the top of the retaining wall and there will be fencing also along the west side of the parking lot. With regard to signage, the Applicant is proposing one (1) pylon sign along Route 23 in Kinnelon, and there will also be a monument sign on site and a sign for the customer pickup area in addition to three (3) façade signs proposed for the front of the Lowe's structure.

In response to questions by members of the Board the witness again reiterated that there will be safety fencing along the top of the retaining wall at the rear of the property and there were also responses to questions regarding site elevations. The witness commented that the Applicant could lower the lighting intensity around the edges

of the property near residences, in addition to providing shielding in order to mitigate light spillage. The witness also indicated the Applicant will provide all required geotechnical information of the rock at the rear of the subject property which is proposed for blasting, together with all required pre- and post-blast surveys. Mr. Coco commented that outside lighting will be limited in the evening hours, and in the event there is blasting needed with regard to the rocks at the rear of the subject property the Applicant would certainly comply with all governmental standards and requirements in this regard. Mr. Coco also responded to a number of questions from members of the public regarding landscaping, fencing, traffic, parking, noise and signage.

5. Kevin Bulger, a site development manager for the Applicant, testified on behalf of the application. Mr. Bulger discussed parking requirements for a typical Lowe's store and Borders Bookstore and stated that, based upon his experience, between 550 to 600 parking spaces are normally required for a typical store. The witness indicated that although the Applicant is proposing a total of 340 parking spaces in Butler, there are an additional 363 proposed within the Borough of Kinnelon for this combined use for a total of 703 on-site parking spaces. The witness indicated that the standard hours of business are 6:00 a.m. to 10:00 p.m. Monday through Saturday, and 7:00 a.m. to 8:00 p.m. on Sunday. Mr. Bulger generally described the Lowe's Home Center operation, in addition to the proposed garden center operation and truck deliveries. In this regard the witness stated that there are approximately 15 to 20 truck deliveries per day and that there is proposed a three-bay dock area at the rear of the building for this purpose.

In response to questions by members of the Board Mr. Bulger reiterated that, in his opinion, between 500 to 600 on-site parking spaces will be needed for this site

and that the Applicant will actually be providing well in excess of this. With regard to opening hours and times of delivery the Applicant stated that they will work with the Borough of Butler in order to minimize any negative impacts and inconveniences to the surrounding areas. Parking lot maintenance and clearing will take place as close to opening and closing as possible, and each roof top HVAC unit on the roof of the store will be screened so as to minimize visual and noise impacts. With regard to employees Mr. Bulger stated that Lowe's would typically hire a total of 225 employees for a store of this size, with 75 employees at the site at any given point in time.

The witness responded to questions by members of the public, and also from questions by the attorney retained by the Borough of Riverdale, regarding parking spaces, landscaping and site cleaning.

6. Karl A. Pehnke, a licensed traffic engineer, testified on behalf of the application. Mr. Pehnke referred to his Traffic Impact Study dated December 13, 2002, which was marked as "A-7" in evidence. Mr. Pehnke generally discussed the Traffic Impact Study and indicated that the DOT would have jurisdiction over access to the site on Route 23, and that the DOT is also mandating that access be provided to Morse Avenue as well. Mr. Pehnke offered his opinion that a Lowe's Home Center is a lower traffic generator than a multi-use shopping center which would also be a permitted use at this site. A Lowe's would not generate all new traffic, because it draws traffic that is already on the road. The witness indicated that approximately 48% of all traffic entering a Lowe's site in the p.m. peak hour is "captured", meaning that this traffic is already on the road. Overall, Mr. Pehnke indicated that approximately 35% to 45% of all existing traffic would be "captured" by a user such as Lowe's.

Mr. Pehnke stated that separate access to Morse Avenue is proposed except that alternate, joint access through the McDonald's property remains in negotiation at the present time with no final agreement reached with the owner thereof. In the event alternate, joint access cannot be made through the McDonald's property by agreement within sixty (60) days following the original date of preliminary approval, June 26, 2003, the Applicant shall present the engineering details of the driveway, as depicted on Exhibit "A-3", as amended, at the time of final site plan application. Mr. Pehnke stated that the proposed aisle widths on site are adequate, that the parking space size of 10 feet by 18 feet (enlarged from original application) was normal and adequate, and that the proposed on-site parking of 703 spaces was more than adequate for the proposed use of the site. He indicated that on-site parking as proposed was appropriate and that "pin stripe parking spaces" can be provided if required. Mr. Pehnke referred to the Conclusion contained within his Traffic Impact Study and indicated that the proposed project can be accommodated on the adjacent street systems of the Borough of Butler, the Borough of Kinnelon and the County of Morris. The Report also concluded that the proposed access driveways provide for safe and efficient access to the site while maintaining efficient traffic flow along State Highway Route 23.

In response to questions by members of the Board Mr. Pehnke responded to questions regarding the intersection at Morse Avenue and Route 23, the concept of "captured" traffic and the access to the site both on Route 23 and Morse Avenue. In this regard, Mr. Pehnke indicated that the access from Route 23 will be right in/right out, with Morse Avenue to be full access in and out. The witness also responded to several questions from members of the public regarding peak traffic counts, Morse Avenue access

distance to Route 23 and general impacts to the neighborhood. There were also questions regarding traffic analysis at streets located less proximate to the subject property and, generally, the prospects of significant impacts on neighboring streets and on the Route 23/Morse Avenue intersection.

7. Harold K. Maltz, a licensed traffic engineer retained by the Board, testified with respect to the application. Mr. Maltz indicated his familiarity with the site and adjoining roadway areas, and also stated that he had reviewed the Applicant's site plan and Traffic Impact Study. Mr. Maltz also commented that he had been previously involved with the Board regarding the adjoining McDonald's application. Mr. Maltz indicated that his findings were set forth in a Letter Report dated June 5, 2003, which was marked "B-1" into evidence. In essence, Mr. Maltz indicated that he had reviewed the Traffic Impact Study and found that the figures set forth therein, and the application of these figures, were appropriate. He also indicated that there would clearly be increased traffic in the area with an impact on the Route 23/Morse Avenue intersection.

In response to questions by members of the Board Mr. Maltz stated that he was comfortable with the number of on-site parking spaces proposed for the uses, and also responded to other questions from the Board. Mr. Maltz also responded to members of the public in terms of traffic impact on adjoining roads, potential motor vehicle backup along Morse Avenue and other safety issues as well.

8. Perry Petrillo, a licensed architect, testified on behalf of the application. Mr. Petrillo generally discussed floor plans and building elevations. The main façade of the Loew's Home Center was proposed to be 28 feet 8 inches in height which was primarily to consist of masonry split block with a "band". The lower half of the building would be a

darker gray color with the upper half of the building a lighter gray color. In that the building was proposed to be 400 to 600 feet off of Route 23 Mr. Petrillo offered his opinion that signage was extremely important in terms of size and location. He indicated that the roof top mechanicals on the Lowe's building will be appropriately screened in order to mitigate noise and visual impacts and that, in his opinion, all signage was appropriately sized in that if they were any smaller they would be "lost" given the size of the overall facility and distance from the highway. It was also noted that the total sign package was less than 5% of the square footage of the façade. The witness also commented that lighting would be designed so as to not spill over onto adjoining properties.

9. Kevin Bulger was recalled and indicated that although propane would be sold in the garden center, there would be no large propane tank on site and that all tanks would be placed in a secure area. The witness also discussed the parking for the loading areas of the garden center, and indicated that the Applicant would work with the Borough with regard to both fire hydrant locations and landscaping and increased plantings. The witness also responded to general questions from members of the public regarding the size of the Lowe's facility and the HVAC units on the roof.

10. John Taikina, a licensed land use planner, testified on behalf of the application. Mr. Taikina reiterated that the subject property is located in the HC-2 (Highway Commercial) Zone and that what is proposed is a permitted use in the zone. With regard to the dimensional variances and design waivers Mr. Taikina indicated that this project, although located in two municipalities, should be considered as one commercial development in that this was the most logical and reasonable manner of looking at the overall utilization of the entire site. Because of this Mr. Taikina offered his

opinion that, although the Applicant was slightly exceeding the building coverage in Butler, when one considered the overall project in terms of both Butler and Kinnelon the overall building coverage was 16.9% which was entirely appropriate and resulted in a good plan. As for parking, again, the witness indicated that the total on-site parking proposed for the entire project, in both municipalities, was 703 parking spaces which was more than adequate for the proposed use. As for parking stall sizes the witness noted that the Applicant has agreed to a 10 foot by 18 foot size which was a normal and customary size for this type of a project. With regard to the maximum light fixture mounting height, Mr. Taikina noted that the light poles immediately adjacent to the residences at the western side of the project could be lowered to 25 feet, with 35 feet everywhere else, in order to minimize light impacts. Even with this, given the size of the site and the shoebox fixtures the witness indicated that the proposed lighting, even at the 35 foot height, was appropriate and needed for this site and would result in a safe and efficient lighting scheme. As for the minimum buffer adjacent to the McDonald's facility, the witness commented that even though the Applicant was approximately 5 ½ feet deficient one must keep in mind that the Applicant was "buffering a buffer" and that, because of this, the 19.5 foot proposed buffer was more than adequate with no negative impacts. As for signage, the witness indicated that the Applicant was proposing three (3) façade signs, one (1) advertising the Lowe's Home Center, one (1) advertising the lumber yard, and one (1) advertising the garden center, and that the number of signs, and the proposed size of the signs, were entirely appropriate given the distance of the facility from Route 23 and the size of the overall facility. Further, Mr. Taikina indicated that the combined square footage of the signs did comply with the percentage of total façade permitted by Butler. Further,

Mr. Taikina indicated that the signs, in their proposed location and size, would appropriately identify the building.

In essence, Mr. Taikina offered his opinion that the positive criteria as set forth in the Municipal Land Use Law and in case law was satisfied for the reasons previously set forth and that, in his opinion, there would be no substantial negative impacts to the neighborhood, zone or zone plan by the granting of the relief requested.

11. William C. Denzler, Board Planner, commented with regard to the application and referred to his previously referred to Memorandums. Mr. Denzler indicated that although this project is in two separate municipalities, it should logically and reasonably be looked at as one site in terms of variance and design waiver issues. Mr. Denzler also indicated that he agreed with the Applicant's planner's rationale with regard to both variances and waivers, and agreed that for those purposes the subject property should be considered as one site.

12. David Dixon, Esq., the attorney for the Applicant, indicated that, at this point in time, the Applicant had not reached an agreement with McDonald's for joint access and they were continuing negotiations in this regard. He indicated that, in the event an agreement could not be reached within sixty (60) days following the original date of preliminary approval, June 26, 2003, the Applicant shall proceed with separate access onto Morse Avenue immediately north of the McDonald's property line as depicted on Exhibit "A-3", as amended. Mr. Dixon also indicated that the Applicant has agreed to allow the Applicant's traffic expert to be available to the Borough for purposes of conferring regarding traffic safety measures, and that the Applicant would assume the cost and expenses of this service up to 120 man hours.

13. Several members of the public commented with regard to the application and, although many expressed a positive view with regard to the location of the proposed Lowe's Home Center, also expressed concerns mainly with regard to traffic. Other concerns expressed were with regard to security fencing and the possibility of increased noise.

14. In that the proceedings in this matter were voice recorded, the recital of facts in this Resolution is not intended to be all inclusive, but a summary and highlight of the complete record made before the Board.

NOW, THEREFORE, the Planning Board hereby makes the following conclusions of law, based upon the foregoing findings of fact.

1. The application before the Board is a request for preliminary site plan approval, together with variances and waivers, for property known as Lots 124 and 124.01 of Block 80 as shown on the Tax Map of the Borough of Butler. The Applicant is seeking to construct two (2) retail commercial buildings (both on this site and in adjacent Kinnelon) together with associated site improvements including a parking lot, storm-water facilities, retaining walls, site landscaping, site lighting and signage.

2. The Municipal Land Use Law, specifically N.J.S.A. 40:55D-46 provides Planning Boards with power to grant preliminary site plan approval when the Applicant satisfies certain criteria which are enunciated in the statute and ordinances. Further, the Municipal Land Use Law, specifically N.J.S.A. 40:55D-70c. provides Boards with the power to grant variances from strict bulk and other non-use related issues when the Applicant satisfies certain specific proofs which are enunciated in the statute. Specifically, the applicant may be entitled to relief if the specific parcel is limited by exceptional

narrowness, shallowness or shape. An applicant may show that exceptional topographic conditions or physical features exist which uniquely affect a specific piece of property. Further, the applicant may also supply evidence that exceptional or extraordinary circumstances exist which uniquely affect a specific piece of property or any structure lawfully existing thereon, and the strict application of any regulation contained in the Zoning Ordinance would result in a peculiar and exceptional practical difficulty, or exceptional and undue hardship, upon the developer of that property.

Additionally, under the c.(2) criteria, the applicant has the alternative of showing that, in a particular instance relating to a specific piece of property, the purpose of the Act would be advanced by allowing a deviation from the zoning ordinance requirements and the benefits of any deviation will substantially outweigh any detriment. In those instances, a variance may be granted to allow departure from regulations adopted pursuant to the Zoning Ordinance. Those categories specifically enumerated above constitute the affirmative proofs necessary in order to obtain "bulk" or c. variance relief. Finally, an applicant must also show that the proposed variance relief sought will not have a substantial detriment to the public good and, further, will not substantially impair the intent and purpose of the zone plan and zoning ordinance. It is only in those instances when the applicant has satisfied both these tests that a Board, acting pursuant to the Statute and case law, can grant relief. The burden of proof is upon the applicant to establish these criteria.

3. Upon consideration of the plans, testimony and evidence, the Board finds that it has been furnished sufficient information so as to enable it to make an informed decision with regard to preliminary site plan approval. Based upon the testimony and

evidence presented it would appear that the proposed land development is a permitted use in the zone, is consistent with sound planning and would enable the property to be utilized in an appropriate fashion consistent with zoning. Based upon the foregoing, the Board concludes that preliminary site plan approval pursuant to N.J.S.A. 40:55D-46 is appropriate as contemplated by the Municipal Land Use Law and by the ordinances of the Borough of Butler.

4. Upon consideration of the plans, testimony and evidence, the Board concludes that the application, viewed in its entirety, represents an appropriate planning alternative given the unique shape and corner location of the subject property. It should be noted that the Applicant has revised its plans from those originally submitted in order to reduce bulk nonconformities, and the Board hereby determines that the Applicant has satisfied the minimum requirements of the Municipal Land Use Law and Borough Ordinances so as to enable the Board to grant the variance relief requested as follows:

- (a) Maximum building coverage – although the Applicant is proposing building coverage in excess of what is permitted solely in Butler, the fact remains that the entire development, which would include both Butler and Kinnelon, would have a total building coverage of only 16.9%. For purposes of planning and development, building coverage limitations are typically utilized for purposes of stormwater management and limiting the overall intensity of site development. Based upon the fact that the Board is reasonably looking at this project in its entirety, the granting of this variance is reasonable and appropriate.

- (b) Wall signs and sign area – based upon the testimony and evidence presented it would appear that a total of three (3) façade signs, in addition to the requested square footage is appropriate, and reasonable. The Board notes that the Lowe's Home Center building itself will be located between 400 and 600 feet from Route 23 and, because of this, adequate size signs are clearly necessary to notify the motoring public. Further, although the square footage of the signs exceeds the ordinance requirements, it should be noted that the percentage of total signage square feet vis-à-vis the entire façade is approximately 3% which is more than appropriate.
- (c) Minimal landscape buffer along the adjoining McDonald's site – the Board notes that the Applicant is approximately 5 ½ feet deficient with regard to buffer. The Board notes that there appears to be very little, if any, negative impacts to the adjoining property as a result of this deficiency given the fact that there is already a proposed buffer on the McDonald's property which, as a supplement to the 19 ½ foot buffer proposed by the Applicant herein, would result in a more than adequate landscape screen.
- (d) Light fixture mounting height – based upon the testimony and evidence presented it would appear that, with the exception of the westerly boundary of the subject property, lighting height of 35 feet, combined with the shoebox fixtures, would result in adequate and safe parking area illumination with minimal light spillage, if any, upon

adjoining properties. Along the westerly most property line the Applicant has agreed to reduce the height of the lighting to a maximum of 25 feet.

- (e) Parking stall size - the Applicant has indicated that it will modify the parking stall size to 10 feet by 18 feet in size which, given the nature of the proposed home center, is appropriate and reasonable.
- (f) On-site parking - in that a gross total of 720 parking spaces are proposed for the entire project site, the Board notes that, based upon the testimony and evidence presented this number clearly appears sufficient for the use.

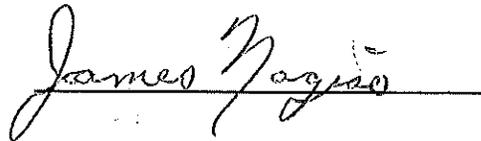
5. With regard to the negative criteria, and based upon the testimony and evidence presented, it would appear that the variance and waiver relief requested is suitable and practical given the proposed development of the subject property, and will result in a safer, more appropriate and more efficient site in terms of all aspects of the use. Further, the requested relief is generally *de minimis* in nature. Based upon the foregoing, and for the reasons set forth earlier in this Resolution, the Board concludes that the variances and design waivers requested may be granted without substantial detriment to the public good, and without substantially impairing the intent and purpose of the zone plan and zoning ordinances of the Borough of Butler.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board that the application of Ceruzzi-Butler LLC for Lots 124 and 124.01 of Block 80, as shown on the Tax Map of the Borough of Butler, requesting preliminary site plan approval is granted pursuant to N.J.S.A. 40:55D-46, as depicted on Exhibit "A-3" which has been amended to include 720

representatives of the County in order to discuss requirements and regulations for the on-site construction. Further, the Applicant shall notify the Morris County Soil Conservation District at least 48 hours to any land disturbing activity.

17. Payment of all fees, costs and escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board's Secretary.
18. Certificate that taxes are paid to date of approval.
19. Subject to all other applicable rules, regulations, ordinances and statutes of the Borough of Butler, County of Morris, State of New Jersey, or any other jurisdiction.

The undersigned certifies that the within Resolution was adopted by this Board on June 26, 2003, and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on 2003.

A handwritten signature in cursive script, reading "James Zagro", is written over a horizontal line.

FOR:

AGAINST:

ABSTAIN: