

TOWN OF HACKETTSTOWN

1. GENERAL INFORMATION

A. Applicant: Name 109 Grand Avenue Associates, LLCStreet Address 1 Fairmount RoadMunicipality Long Valley, NJ 07830

Telephone _____

B. Applicant Status:

Individual(s) ☐ Partnership ☒ Corporation ☐Other ☐ Specify _____

C. If Applicant is a Partnership or Corporation, attach a list of the names of persons having a 10% interest or more in said partnership or Corporation.

Check here if list is attached. ☒D. Applicant relationship to property: Owner ☐ Lessee ☐Under Contract ☐ Other ☐ Specify _____

E. Property Owner (if other than Applicant):

Name 109 Grand Avenue Associates LLCStreet Address 1 Fairmount RoadMunicipality Long Valley, NJ 07830Telephone 908-507-4103

F. Architect:

Name Mileto-Godsall Associates, LLCStreet Address 14 Beaver Brook Drive, Long Valley, NJ 07853Telephone 908-876-9400

G. Attorney:

Name Michael S. Selvaggi, Esq.

Street Address 1001 Route 517

Municipality Hackettstown, NJ 07840

Telephone 908-852-2600

2. TYPE OF APPLICATION - check where appropriate

☒ Minor Site Plan (Amended)

VARIANCES

☐ Minor Subdivision

☒ Use

☐ Preliminary Major Site Plan

☒ Bulk

☐ Preliminary Major Subdivision

☐ Final Major Site Plan

☐ Interpretation

(appeal from Administrative Officer)

☐ Final Major Subdivision

☐ Conditional Use

(REFER TO SECTION 200 OF
THE LAND USE ORDINANCE)

3. PROPERTY DATA

A. STREET ADDRESS 109 Grand Avenue, Hackettstown, NJ 07840

B. BLOCK NUMBER 75 LOT NUMBER 18 & 19

C. The location of the property is approximately 125 feet from
the intersection of RT. 46 and Grand Avenue

D. Existing Use Bar/Restaurant

E. Proposed Use Bar/Restaurant with employee housing

F. Zone District TCC

G. Acreage of Entire Tract to be Subdivided

DEVELOPMENT APPLICATION

Page 3 of 4

H. Proposed Number of Lots _____

I. Is the property located on a County of Warren Roadway?

Yes ☐ No ☒

J. Is the property located within 200' of a municipal boundary?

Yes ☐ No ☒

K. Was this property subject to a prior development application?

Yes ☒ No ☐

L. Is the property subject to any existing or proposed deed restrictions, easements, rights of way, private roads, or other dedications?

Yes ☒ No ☐

If so, attach all relevant information. Check here if such information is attached. ☐

4. DEVELOPMENT PROPOSAL - Describe the nature of the application being sought, including on-site improvements

See attached Addendum to Application.

5. SUBMISSIONS - List all maps, plats, sketches and other exhibits accompanying this application:

<u>Description</u>	<u>Date Prepared</u>	<u>Prepared By</u>
Third Floor Plan	9/13/2021(Revised)	Mileto-Godsall Associates, LLC

6. VARIANCES

Describe any proposed variances requested, detail and/or location, proposed block and lot and the specific section(s) of the Zoning Ordinance of the Town of Hackettstown from which relief is sought and the basis for said relief:

See attached. Relief requested from Section 406. F.

7. VERIFICATION AND AUTHORIZATION

I hereby certify that the statements and information contained herein and attached hereto are true and correct.

Applicant or Representative

9/16/21

Date

I hereby authorize the Applicant reference therein subject application and to proceed for approval of same.

Applicant or Representative

9/16/21

Date

OFFICIAL USE ONLY

8. APPLICATION HISTORY

A. Date Filed: _____

B. Date Complete: _____

C. Fee Paid: _____ Date Paid: _____

B. Notice of Hearing: Date of Publication _____

Date of Mailing _____

Affidavit Received _____

9. DISPOSITION OF APPLICATION

A. _____ Application Denied

B. _____ Application Withdrawn

C. _____ Application Granted

DATE OF DISPOSITION: _____

MICHAEL B. LAVERY
MICHAEL S. SELVAGGI⁺
JOHN J. ABROMITIS
LAWRENCE P. COHEN⁺
KATHERINE E. INGRASSIA⁺
JAMES F. MOSCAGIURI
KATRINA L. CAMPBELL⁺
RICHARD W. WENNER⁺
WILLIAM H. PANDOS⁺
KYLE S. CLAUSS

⁺CERTIFIED BY THE SUPREME COURT OF
NEW JERSEY AS A CIVIL TRIAL ATTORNEY
⁺MEMBER OF NJ AND PA BAR
⁺MEMBER OF NJ AND NY BAR

LAW OFFICES
LAVERY, SELVAGGI, ABROMITIS & COHEN

A PROFESSIONAL CORPORATION
1001 ROUTE 517
HACKETTSTOWN, NEW JERSEY 07840
(908) 852-2600
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23 CATTANO AVENUE
AT CHANCERY SQUARE
MORRISTOWN, NJ 07960
Telephone (973) 285-1281
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OF COUNSEL:

JAMES A. COURTER
JOEL A. KOBERT
PETER J. COSSMAN
ROBERT V. STILES
RICHARD R. KEILING
SENDER'S DIRECT EMAIL
mselvaggi@LSACLAW.COM

ADDENDUM TO APPLICATION

On February 23, 2021, the Hackettstown Land Use Report adopted Resolution # R 20-14. The Resolution granted minor site plan and use and bulk variance relief to the Applicant, 109 Grand Avenue Associates, LLC. Among other things, the approval allowed the Applicant to renovate the third floor of the existing building on lots 18 and 19 in Block 75 to permit eight boarding home rooms that were only to be made available to employees of the Applicant's restaurants and their spouses or significant others. The approval also allows six other rooms to be used as a bridal suite to be used in connection with a wedding held at the Applicant's facility. The rooms were not made to be available to overnight guests who were not part of a wedding party.

Since securing the approval, the Applicant has been working towards obtaining all other requisite permits, including building permits and the Certificates of Occupancy. Unfortunately, an unexpected issue has arisen that now calls into question the arrangements previously approved by the Board as outlined above. Specifically, the Town's construction code official deemed the bridal suite to be akin to a hotel. He has based his opinion on the transient nature of the use. Importantly, designating this use to be akin to a hotel would require the Applicant to install an elevator and other expensive upgrades. Candidly, the cost of compliance with these code requirements would far exceed the expected return.

Consequently, the Applicant is seeking to amend its approval to eliminate the use of any of the rooms on the third floor for a bridal suite. Instead, the rooms that were previously approved for use as a bridal suite will be converted into four additional boarding rooms for employees only, a lounge, a dressing room, and storage. By making these changes, the third floor will be designated as a residential use by the construction code official and the Applicant will not be required to install an elevator or other expensive upgrades. All other conditions imposed by the Board in its previous Resolution will remain unchanged.

The Applicant believes that this amendment and the change of the use on the third floor is justified as per the use variance testimony previously given. The Applicant believes the purposes of zoning embraced by the Board and set forth Paragraph 37 of its Resolution remain valid. Similarly, the Applicant does not believe this proposed change would be a substantial detriment to the Town's zoning ordinances, the neighborhood scheme, or the Town's Master Plan.

::::CHECK LIST::::

Details required for

Minor Subdivision Plats and Minor Site Plans

Note: See Section 803 of the Hackettstown Land Development Ordinance for further details of submission requirements and procedures.

Applicant

<u>Y</u>	Application Form (s) and Checklist(s) (20 copies).
<u>W</u>	Plats or Plans (20 copies) signed and sealed by a N.J.P.L.S. or N.J.P.E., as required, and folded into eighths with title block revealed.
<u>W</u>	Protective Covenants, Easements and/or Deed Restrictions (10 copies).
<u>W</u>	Scale of not less than 1" = 50' on one of four of the following standard sheet sizes (8 1/2" x 13"; 15" x 21"; 24" x 36"; or 30" x 42").
<u>W</u>	Key map at not more than 1"=1000'.
<u>W</u>	Title block:
<u>W</u>	Name of subdivision or development, Town of Hackettstown, Warren County, with each sheet specifically titled with appropriately descriptive words;
<u>W</u>	Name, title, address and telephone number of subdivider or developer.
<u>W</u>	Name, title, address and license number of the professional or professionals who prepared the plot or plan;
<u>W</u>	Name, title and address of the owner or owners of record;
<u>W</u>	North arrow;
<u>W</u>	Scale (written and graphic); and
<u>W</u>	Date of original preparation and of each subsequent revision thereof and a list of specific revisions entered on each sheet.
<u>Y</u>	Names and addresses of partners or stockholders as required by Ordinance.

- W Acreage figures (both with and without areas within public rights-of-way).
- W Approval signature lines.
- W Existing block and lot number(s) of the lot(s) to be subdivided or developed as they appear on the Town Tax Map, and proposed block and lot numbers as provided by the Town Tax Assessor upon written request;
- W Tract boundary line (heavy solid line).
- W The location of existing and proposed property lines (with bearings and distances), streets, structures (with their numerical dimensions and an indication as to whether existing structures will be retained or removed), parking spaces, loading areas, driveways, watercourses, railroads, bridges, culverts, drain pipes, any natural features such as wetlands and treed areas, both within the tract and within one hundred feet (100') of its boundary.
- W The location and width of all existing and proposed utility easements, the use(s) for which they are intended to be limited, and the manner in which the easements will be controlled.
- W Zoning districts affecting the tract, including district names and all area and bulk requirements, with a comparison to the proposed development.
- W Proposed buffer and landscaped areas.
- W Delineation of flood plains, including both floodway and flood fringe areas.
- W Contours as shown on the U.S.G.S. topographic sheets.
- W Marshes, ponds and land subject to flooding within the tract and within one hundred feet (100') thereof.
- W The names of all adjacent property owners as they appear on the most recent tax list prepared by the Clerk of the Planning Board or Clerk of the Zoning Board of Adjustment, as the case may be.
- Y Five (5) copies of a certificate from the Town Tax Collector indicating that all taxes and assessments are paid to date.
- Y Five (5) copies of the completed application to the Warren County Planning Board, if applicable.
- W Five (5) copies of the completed application to the Hackettstown Municipal Utilities Authority, if applicable.
- W Concerning minor subdivisions only, existing and proposed monuments.
- W Proposals for soil erosion and sediment control as required by N.J.S.A. 4:24-39 et seq.

- W Concerning minor subdivisions only, an Environmental Impact Statement in accordance with the provisions of Section 804 C.
- W Road right-of-way dedication and improvement, as applicable.
- W Plans of proposed improvements and/or utility layouts as required by Ordinance; and required letters from appropriate State and County agencies granting approval for the extension of utility service(s).
- W Sight triangle easements, as applicable.
- W Deed descriptions (including metes and bounds), easements, covenants, restrictions, and roadway dedications.
- W An Historic Impact Statement, if applicable, in accordance with Section 806 E. of this Ordinance.
- W A sixty-year title search dated within 6 months of the application date including copies of all deeds, easements, covenants, restrictions and other items affecting title to the property.
- W Highlands Consistency Determination or, in the alternative, documentation per Section 807 of the Land Development Ordinance entitled "Highlands Area Exemption Ordinance" that shows that the application is exempt from the Highlands Act.
- W A "Major Development Stormwater Summary Sheet" shall be submitted when a stormwater management basin is proposed on a project.



Signature and Title of person who prepared check list.

9/16/21
Date

::::CHECK LIST::::
Details required for
Variance Applications

Note: See Section 802 C. of the Hackettstown Land Development Ordinance for further details of submission requirements and procedures.

- Y Application Form(s) and Checklist(s)(20 copies).
- W Plats or Plans (20 copies) signed and sealed by a N.J.P.L.S. or N.J.P.E., as required, and folded into eighths with title block revealed.
- W Scale of not less than 1" = 100' on one of four of the following standard sheet sizes (8 1/2" x 13"; 15" x 21"; 24" x 36"; or 30" x 42").
- W Key map at less than 1"=1000'.
- W Title block:
 - W Name of subdivision or development, Town of Hackettstown, Warren County, with each sheet specifically titled with appropriately descriptive words;
 - W Name, title, address and telephone number of subdivider or developer;
 - W Name, title, address and license number of the professional or professionals who prepared the plot or plan;
 - W Name, title and address of the owner or owners of record;
 - W North arrow;
 - W Scale (written and graphic);
 - W Date of original preparation and of each subsequent revision thereof and a list of specific revisions entered on each sheet; and
 - W Names and addresses of partners or stockholders as required by Ordinance.
 - W Acreage figures (both with and without areas within public rights-of-way).
 - W Approval signature lines.
 - W Existing block and lot number(s) of the lot(s) to be subdivided or developed as they appear on the Town Tax Map, and proposed block and lot numbers as provided by the Town Tax Assessor upon written request.

- W Tract boundary line (heavy solid line).
- W The location of existing and proposed property lines (with bearings and distances), streets, structures (with their numerical dimensions and an indication as to whether existing structures will be retained or removed), parking spaces, loading areas, driveways, watercourses, railroads, bridges, culverts, drain pipes, any natural features such as wetlands and treed areas, both within the tract and within one hundred feet (100') of its boundary.
- W The location and width of all existing and proposed utility easements, the use(s) for which they are intended, and the manner in which the easements will be controlled.
- W Zoning districts affecting the tract, including district names and all area and bulk requirements, with a comparison to the proposed development.
- W Proposed buffer and landscaped areas.
- W Delineation of flood plains, including both floodway and flood fringe areas. Contours as shown on the U.S.G.S. topographic sheets.
- W Marshes, ponds and land subject to flooding within the tract and within one hundred feet (100') thereof.
- W The names of all adjacent property owners as they appear on the most recent tax list prepared by the Clerk of the Planning Board or Clerk of the Zoning Board of Adjustment, as the case may be.
- Y Five (5) copies of a certification from the Town Tax Collector indicating that all taxes and assessments are paid to date.
- W Concerning subdivisions only, existing and proposed monuments.
- W Road right-of-way dedication and improvement, as applicable.
- W Sight triangle easements, as applicable.
- W Deed descriptions (including metes and bounds), easements, covenants, restrictions, and roadway dedications.
- W A sixty-year title search dated within 6 months of the application date including copies of all deeds, easements, covenants, restrictions and other items affecting title to the property.
- W Highlands Consistency Determination or, in the alternative, documentation per Section 807 of the Land Development Ordinance entitled "Highlands Area Exemption Ordinance" that shows that the application is exempt from the Highlands Act.
- W A "Major Development Stormwater Summary Sheet" shall be submitted when a stormwater management basin is proposed on a project.

Signature and Title of person who prepared check list

Date

9/16/21

**109 GRAND AVENUE ASSOCIATES LLC
BLOCK 75 LOTS 18 & 19**

TOWN OF HACKETTSTOWN

**10% OWNER'S DISCLOSURE STATEMENT
Pursuant to N.J.S.A. 40:55D-48.1**

The following is a list of owner's with a 10% or greater ownership interest of 109 GRAND AVENUE ASSOCIATES LLC:

Steven D. Busse 100%

SITE INSPECTION AUTHORIZATION

I, Steve Bussel, the undersigned property owner or lessee, do hereby authorize Town of Hackettstown officials to enter upon and inspect the property owned/leased by me at 109 Grand Avenue, Hackettstown, NJ 07840, in conjunction with my application to the Land Use Board of Town of Hackettstown.

Name: Steve Bussel

Signature: 

Date: 9/14/21

MEMORIALIZING RESOLUTION OF THE LAND USE BOARD
OF THE TOWN OF HACKETTSTOWN APPROVING THE
MINOR SITE PLAN, USE VARIANCE,
AND BULK VARIANCE APPLICATIONS
OF 109 GRAND AVENUE ASSOICATES, LLC

LAND USE BOARD

TOWN OF HACKETTSTOWN

APPLICATION # 20-14

RESOLUTION # R20-14

WHEREAS, 109 Grand Avenue Associates, LLC, with an address of 1 Fairmount Road, Long Valley, New Jersey 07830, hereinafter the "Applicant", has filed an application for Minor Site Plan, Use Variance, and Bulk Variance approvals for property located at 109 Grand Avenue (Lots 18 & 19 in Block 75), in accordance with plans prepared by Mileto-Godsall Associates, LLC; and

WHEREAS, the subject property is located in the Town of Hackettstown's TCC (Town Center Commercial) zoning district; and

WHEREAS, the subject property is currently developed with a restaurant – Bea McNally's; and

WHEREAS, the approval sought by the Applicant will allow the Applicant to renovate the third floor of the existing building to provide a "bridal suite" consisting of four (4) bedrooms and two (2) bathrooms and to further provide eight (8) bedrooms and three (3) bathrooms for employees of the restaurant; and

WHEREAS, the Property has been the subject of previous land use applications; and

WHEREAS, site plan and variance approvals to utilize the second floor of the three-story building for banquet purposes and to increase the overall number of seats in the building from 247 to 369 were granted on December 12, 2000. A resolution memorializing said approvals was adopted on January 23, 2001; and

WHEREAS, at the time of the aforementioned December 12, 2000 approval, the building on the Property was occupied by Charlie Brown's Restaurant; and

WHEREAS, site plan and bulk variance approvals to make minor modifications to the building, exterior signage, and parking area to allow for an Irish Pub/Restaurant on the subject property were granted on January 24, 2012. A resolution memorializing said approvals was adopted on February 29, 2012; and

WHEREAS, at the time of the aforementioned January 24, 2012 approvals, the building on the Property was occupied by Bea McNally's Restaurant; and

WHEREAS, both the 2000 and 2012 approvals prohibited the use of the third floor of the facility without further Board approval; and

WHEREAS, both the 2000 and 2012 approvals required the Property owner to enter into agreement(s) with nearby property owners to permit parking by customers and/or employees on said other parcels and/or utilize available municipal parking; and

WHEREAS, as a result of the prior 2000 and 2012 approvals, bulk variance relief was granted for insufficient off-street parking stalls as the Property owner provided 62 parking stalls where 123 were required; and

WHEREAS, the Applicant now proposes to designate eight (8) parking spaces for those employees living in the rooming house/employee housing proposed thereby resulting in a reduction of the already deficient number of off-street parking spaces provided; and

WHEREAS, the designation of any parking spaces for the rooming house/employee housing would exacerbate the non-conformity of off-street parking and thereby require bulk variance approval; and

WHEREAS, as part of its application, the Applicant is seeking a use variance to permit a rooming house for employees. Said use is not permitted in the TCC Zoning District; and

WHEREAS, the Board considered the Applicant's application and held public hearings thereon on December 15, 2020 and January 26, 2021 (via Zoom) as the Board is currently operating under COVID-19 Emergency New Jersey Executive Orders 103 and 107; and

WHEREAS, the aforesaid public hearings, which were held at open public meetings, were noticed, advertised and held in accordance with the Open Public Meetings Act; and

WHEREAS, the Applicant and the public were afforded the opportunity to be heard concerning the application; and

WHEREAS, the Applicant was represented by Michael Selvaggi, Esq. of Lavery, Selvaggi, Abromitis & Cohen, PC at the public hearing; and

WHEREAS, the Applicant presented Steven Bussel, owner/operator of the applicant LLC, who testified on behalf of the application; and

WHEREAS, the Applicant presented Frank Mileto, RA, PP of Mileto-Godsall Associates, LLC who testified on behalf of the application; and

WHEREAS, the application was reviewed by Board Engineer, Paul M. Sterbenz, P.E., P.P., Maser Consulting, P.A.; and

WHEREAS, the application was reviewed by Board Planner, Daniel Bloch, PP, AICP, Maser Consulting, P.A.; and

WHEREAS, the following documents, plans, and reports were submitted by the applicant:

1. Completed Town of Hackettstown Land Development Application
2. Addendum to Application summarizing the applicant's request for use variance approval
3. Copy of an August 13, 2001 boundary survey for Lots 18 and 19 in Block 75 prepared by Frank J. Kowalick.
4. Copy of Planning Board Resolution 12-02, memorialized by the Planning Board on February 29, 2012, with respect to approvals granted to MBK Investments LLC to renovate the former Charlie Brown's Restaurant.
5. Copy of a 1979 Parking Easement Agreement between the owners of Lots 18 and 19 in Block 75 and Lots 6.01 and 8 in Block 75.
6. Sketch depicting the location of the eight (8) parking stalls to be allocated for employees residing in the proposed third floor rooms.
7. Red line of proposed Third Floor Plan for the building prepared by Mileto-Godsall Associates LLC.
8. November 12, 2020 letter of denial from Zoning Official David J. Diehl to Steven Bussel of 109 Grand Avenue Associates LLC.

WHEREAS, the Land Use Board Planner, Daniel Bloch, PP, AICP, Maser Consulting, P.A. prepared and submitted a Planning Report dated January 21, 2021; and

WHEREAS, the Hackettstown Land Use Board does hereby make the following findings of fact and conclusions of law based upon the testimony and documentary evidence produced by the Applicant and the Board staff:

1. The subject property is situated on the easterly side of Grand Avenue, between Washington Street and Main Street. It is also known as Lots 18 and 19 in Block 75.

2. The subject property is currently developed with a three-story historic structure dating back to roughly 1890. The existing structure houses Bea McNally's restaurant.

3. The subject property is located in the Town of Hackettstown's TCC (Town Center Commercial) zoning district.

4. The Board reviewed Exhibit A-1 (Floor Plan prepared by Mileto-Godsall Associates with a revision date of 12/14/20) which was received in evidence from the Applicant.

5. The Board reviewed the Planning Report of Board Planner, Daniel Bloch, PP, AICP, Maser Consulting, P.A. dated January 21, 2021. Said report is attached hereto and is incorporated herein by reference.

6. Fact testimony was provided by Steven Bussel, owner/operator of the applicant LLC.

7. Mr. Bussel testified that the applicant LLC has owned the subject property "since October".

8. Mr. Bussel described the proposed bridal suite as being only for guest of a "featured function" on site. He specified that said suite would not be available to members of the public as a "hotel room".

9. Mr. Bussel testified that the employees living in the proposed rooming house/employee housing would "manage the property off hours" in conjunction with the restaurant manager and Mr. Bussel.

10. Mr. Bussel testified that the rooming house/employee housing would only be available for employees working at the subject property or other locations owned by the applicant LLC, Mr. Bussel, or related entities. Mr. Bussel specified that no rooms would be leased to non-employees.

11. Expert testimony was provided on the subjects of architecture and professional planning by Applicant's witness Frank Mileto, RA, PP of Mileto-Godsall Associates, LLC.

12. Mr. Mileto gave a summary of the proposal and relief sought by the Applicant, noting that in addition to the bridal suite area proposed, the Applicant seeks to provide eight (8) rooms on the third floor for employee housing. Mr. Mileto confirmed that the eight (8) rooms would require D-1 use variance relief.

13. Mr. Mileto testified that the "rooms on the third floor have been there since the structure was built". Mr. Mileto testified that the Applicant seeks only to renovate an existing space where "the walls are already there".

14. Mr. Mileto confirmed that the eight (8) rooms proposed would only be available for employees and their spouses.

15. Mr. Mileto testified that granting D-1 use variance relief to permit the proposed rooming house/employee housing on the third floor of the existing structure would advance purposes "a", "b", "i", and "j" of the Municipal Land Use Law.

16. Mr. Mileto testified that the Property was particularly well suited for the eight (8) rooms proposed as they have been there since the building was erected and the Applicant's proposal does not add any new rooms.

17. Mr. Mileto testified that the required D-1 use variance to permit the proposed rooming house/employee housing on the third floor of the existing structure can be granted without a substantial detriment to the public good. Mr. Mileto further opined that there would actually be no detriment.

18. Mr. Mileto testified that granting the required D-1 use variance to permit the proposed rooming house/employee housing on the third floor of the existing structure will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

19. Mr. Mileto testified that granting the required D-1 use variance to permit the proposed rooming house/employee housing on the third floor of the existing structure will not substantially impair the intent and purpose of the Town's master plan.

20. Mr. Mileto testified that the Applicant's proposal "aligns with the 2018 master plan", in that it encourages the revitalization of historic Hackettstown and uses the upper floors of an existing historic structure for residential uses which is permitted in the Town's TCC zone.

21. The Board finds and concludes that granting the D-1 Use variance to permit the proposed rooming house/employee housing on the third floor of the existing structure on the subject property will promote the general welfare.

22. The Board further finds and concludes that allowing the D-1 use variance to permit the proposed rooming house/employee housing on the third floor of the existing structure on the subject property would advance purposes "a", "b", "i", and "j" of the Municipal Land Use Law (NJSA 40:55D-2a, NJSA 40:55D-2b, NJSA 40:55D-2i, and NJSA 40:55D-2j):

- "encourag[ing] municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare."
- "secur[ing] safety from fire, flood, panic and other natural and man-made disasters."
- "promot[ing] a desirable visual environment through creative development techniques and good civic design and arrangement."
- "promot[ing] the conservation of historic sites and districts. . ."

23. The Board further finds and concludes that the subject property is particularly suited for the uses proposed.

24. The Board finds that the benefits of the D-1 variance to permit the proposed rooming house/employee housing on the third floor of the existing structure on the subject property outweigh any detriment.

25. The Board finds that granting the D-1 Use Variance to permit the proposed rooming house/employee housing on the third floor of the existing structure on the subject property will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

26. Mr. Mileto reviewed the bulk variance required as a result of the proposed dedication of eight (8) existing parking spaces for employees living in the proposed rooming house/employee housing. Mr. Mileto testified that such variance relief could be granted under the C-2 variance criteria.

27. Mr. Mileto testified that the C-2 variance relief required by the reduction of eight (8) existing off-street parking spaces by designating such spaces for employees living in the proposed rooming house/employee housing could be granted without substantial detriment to the public good.

28. Mr. Mileto testified that the benefits of granting the required C-2 parking variance outweigh any detriments.

29. Mr. Mileto opined that the reduction of eight (8) existing off-street parking spaces by designating such spaces for employees living in the proposed rooming house/employee housing "will not pose a problem for patrons as there is public parking available."

30. Mr. Mileto testified that granting C-2 bulk variance relief to reduce the number of off-street parking spaces provided by dedicating eight (8) existing spaces for employees living the proposed rooming house/employee housing would advance purposes "a", "b", "i", and "j" of the Municipal Land Use Law.

31. The Board expressed concerns about reducing the number of parking spaces for patrons, and in so doing noted the alternative off-site parking arrangements (agreements) that were conditions of the prior 2000 and 2012 approvals.

32. In response to the Board's expressed parking concerns, the Applicant agreed to endeavor to preserve on-site parking for patrons and pursue alternative parking arrangements for employees living in the proposed rooming house/employee housing.

33. The Applicant further agreed to continue to abide by the conditions of approval related to parking in the prior 2000 (conditions 8 & 9 of the January 23, 2001 memorializing resolution) and 2012 (finding of fact 10 and conditions 4 & 5 of the February 29, 2012 memorializing resolution) approvals.

34. The Applicant further agreed to "rent space in one of the public lots" for any employee living in the proposed rooming house/employee housing who has a car.

35. In his report of January 21, 2021, Board Planner Daniel Bloch, PP, AICP, Maser Consulting, P.A. noted that "since rooming houses are not a permitted use in the TCC District, there is not a required parking standard for such

uses." As a result, the Board does not have a definitive standard to assess sufficiency of off-street parking for the employee housing use proposed. The Board does find and conclude, however, that at a minimum it would be best to avoid any redesignation/reduction of existing off-street parking for patrons.

36. While the Board recognizes that obviating the need to designate any existing parking spaces for employee(s) living in the proposed rooming house/employee housing would potentially obviate the need for the C-2 parking variance, the Board recognizes the prudence in granting said variance relief should the Applicant be unsuccessful in securing alternate parking arrangements for employees living in the proposed rooming house/employee housing.

37. Given the Applicant's agreement to use all reasonable best efforts to secure alternate off-site parking arrangements for employees living in the proposed rooming house/employee housing, the Board finds and concludes that granting C-2 variance relief to permit a reduction of up to eight (8) existing off-street parking spaces by redesignating said spaces for employees living in the proposed rooming house/employee housing would advance purposes "a", "b", "i", and "j" of the Municipal Land Use Law (NJSA 40:55D-2a, NJSA 40:55D-2b, NJSA 40:55D-2i, and NJSA 40:55D-2j):

- "encourag[ing] municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare."
- "secur[ing] safety from fire, flood, panic and other natural and man-made disasters."

- "promot[ing] a desirable visual environment through creative development techniques and good civic design and arrangement."
- "promot[ing] the conservation of historic sites and districts. . ."

38. Given the Applicant's agreement to use all reasonable best efforts to secure alternate off-site parking arrangements for employees living in the proposed rooming house/employee housing, the Board finds and concludes that granting C-2 variance relief to permit a reduction of up to eight (8) existing off-street parking spaces by redesignating said spaces for employees living in the proposed rooming house/employee housing can be granted without substantial detriment to the public good.

39. Given the Applicant's agreement to use all reasonable best efforts to secure alternate off-site parking arrangements for employees living in the proposed rooming house/employee housing, the Board finds and concludes that the benefits of granting C-2 variance relief to permit a reduction of up to eight (8) existing off-street parking spaces by redesignating said spaces for employees living in the proposed rooming house/employee housing substantially outweigh any detriment.

40. Given the Applicant's agreement to use all reasonable best efforts to secure alternate off-site parking arrangements for employees living in the proposed rooming house/employee housing, the Board finds and concludes that granting C-2 variance relief to permit a reduction of up to eight (8) existing off-street parking spaces by redesignating said spaces for employees living in the

proposed rooming house/employee housing will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

NOW THEREFORE BE IT RESOLVED by the Land Use Board of the Town of Hackettstown on this 26th day of January 2021, that the application of 109 Grand Avenue Associates, LLC for Minor Site Plan, Use Variance, and Bulk Variance approvals be approved subject to the following conditions:

- a. The terms of such approval are to be strictly in accordance with the application, plans and testimony presented to the Board herein, and same are incorporated into this resolution by reference.
- b. The Applicant shall revise its plans to address and depict any comments by the Board and its professionals.
- c. The payment of Real Estate taxes.
- d. All fees, assessments, escrows and other monies due to the Town of Hackettstown shall be paid in full.
- e. The Applicant shall comply with all comments in the January 21, 2021 Planning Report prepared by the Land Use Board Planner, Daniel Bloch, PP, AICP, Maser Consulting, P.A.
- f. The rooming house/employee housing approved herein shall not be made available to any non-employee and shall not be leased to a member of the public. The eight (8) rooms designated as employee housing shall only be available to employees and their spouses/significant others. No children will be permitted to reside in the rooming house/employee housing.

g. The bridal suite use shall only be associated with functions on site. Said suite/rooms shall not be made available to members of the public.

h. The Applicant agrees to deed restrict the rooming house/employee housing so that each bedroom qualifies as an "alternative living arrangement" in accordance with NJAC 5:93-5.8. Said deed restriction(s) shall remain in place for at least ten (10) years and shall be subject to the review and approval of the Board Attorney and Board Planner. The approved deed restriction must be recorded in the County Clerk's Office prior to the issuance of any building permits for the bridal suite and rooming house. A copy of the recorded deed restriction must be furnished to the Board Engineer and Board Planner.

i. The Applicant agrees to comply with conditions related to parking in the January 23, 2001 memorializing resolution and the February 29, 2012 memorializing resolution referenced above. Said conditions of approval shall be extended herein beyond patrons and employees not residing on the subject property to include and make provisions for those employees living in the rooming house/employee housing approved herein.

j. The Applicant agrees to use any and all reasonable best efforts to procure off-site parking for employees living in the rooming house/employee housing approved herein so as to avoid redesignation of existing off-street parking spaces for employees living in the rooming house/employee housing.

k. There shall be no cooking facilities on the third floor.

l. The bathroom next to Room 306 shall include a shower.

m. The rooming portion of the third floor shall be subject to any and all state review and approval.

Motion to Approve: Tierney
Second: Walling

Roll Call Vote:

Those in Favor: Moore, Tierney, Wolfrum, Camporini, Stead, Walling
Abstain: Lambo

Those Opposed: None

I hereby certify that the above is a true copy of a Resolution adopted by the
Land Use Board of the Town of Hackettstown at its regular meeting of
February 23, 2021

x Nancy Matusiewicz
Nancy Matusiewicz Clerk
Hackettstown Land Use Board