

**BOROUGH OF TINTON FALLS
COUNTY OF MONMOUTH**

PLEASE TAKE NOTICE that the Planning Board of the Borough of Tinton Falls will hold a virtual/remote meeting on Wednesday, May 13, 2020 at 7:30PM

Pursuant to N.J.S.A. 10:4-8, the agenda to the extent known is as follows:

1. Memorialization of the Action of the Board taken on March 11, 2020 regarding Tic-Tac-Toe Development for premises known as Lot 17.03 in Block 14.02 as shown on the Official Tax Map of the Borough of Tinton Falls and located at 97 Apple Street, Tinton Falls, New Jersey.
2. Discussion of Municipal Land Use Compliance for future meetings.
3. Public Comments on matters other than pending applications as required by N.J.S.A. 10:4-12(a)

Persons can participate by accessing as follows:

Tinton Falls Website: www.tintonfalls.com
Posting at the Municipal Building

The WebEx link to access the meeting can be found at:
<http://pb.tintonfalls.com>

The Meeting Number (access code) is 962 681 414
Meeting Password: TintonFalls4

By Phone: US/Canada Toll Free: 1844-531-0749
Meeting Number (access ID) 962 681 414
Passcode: 846 866 32

WebEx Instructions

For detailed help how to use WebEx with your device, please visit

<https://help.webex.com/>

How to Download:

Pc or Mac:

<https://help.webex.com/en-us/0tow9g/Download-and-Set-Up-the-Cisco-Webex-Meetings-Desktop-App>

Smart Phone App:

<https://help.webex.com/en-us/p3t8bg/Use-the-Cisco-Webex-Meetings-Mobile-App#Install-the-Cisco-Webex-Meetings-Mobile-App>

Joining the meeting:

<https://help.webex.com/en-us/n62wi3c/Get-Started-with-Cisco-Webex-Meetings-for-Attendees>


Webex Link for Tinton Falls Planning Board Meeting:

<http://pb.tintonfalls.com>

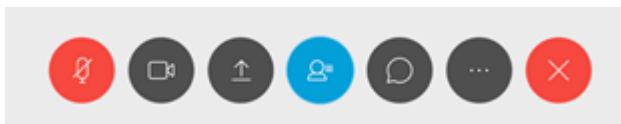
Meeting Number: 962 681 414

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Raise Hand:

Use **Raise Hand**  next to your name in the **Participants** panel

Meeting Essentials-The New Control Bar:



1. **Mute:** Clicking on the button will mute/unmute your audio during the meeting.
2. **Start my Video:** Click the camera icon to allow the host and other participants to see you. View the host and participants in full screen.

3. **Share content:** Share your desktop, files, applications, websites, or videos.
4. **Participants:** Clicking on the button will open the participants window.
5. **Chat:** Clicking on this button will open the chat window. You can then chat with anyone in the meeting or hold private discussions with any participant.
6. **More Options:** The More Options menu allows you to copy the meeting information and configure your audio connections.
7. **Leave the Meeting:** Clicking on this button will allow you to leave the meeting.

Pc Requirements:

<https://help.webex.com/en-us/nki3xrq/Webex-Meetings-Suite-System-Requirements>

All other Web Ex Help:

<https://help.webex.com/en-us/n62wi3c/Get-Started-with-Cisco-Webex-Meetings-for-Attendees>

To Connect using Telephone:

Call: (844) 531-0749 US Toll Free

Access ID/Meeting Number: 962 681 414

Passcode: 946 866 32

RESOLUTION

of the

**PLANNING BOARD OF THE BOROUGH OF TINTON FALLS
GRANTING MINOR SUBDIVISION APPROVAL WITH VARIANCES AND DESIGN
WAIVERS**

APPLICANT: Tic Tac Toe development, LLC
Block 14.02, Lot 17.03
P.B. # 2019-23

WHEREAS, Applicant, Tic Tac Toe Development, LLC, is the owner of premises known as Block 14.02, Lot 17.03 on the tax map of the Borough of Tinton Falls, County of Monmouth and State of New Jersey, hereinafter referred to as “premises or property”; and

WHEREAS, Lot 17.03 (0.992 acres) currently contains a one-story commercial structure, a paved parking lot, two driveways, concrete sidewalk and various concrete pads; and

WHEREAS, the lot is located in the NC (Neighborhood Commercial) Zone of the Borough, with frontage along Apple Street and Blossom Street; and

WHEREAS, the Applicant seeks Minor Subdivision Approval to subdivide the existing lot into two new lots, proposed corner Lot 17.05 (14,400 square feet) with frontage along Apple Street and Blossom Street and proposed Lot 17.04 (28,800 square feet) with frontage along Apple Street; and

WHEREAS, the Applicant is not proposing any new improvements on proposed Lots 17.04 or 17.05 with this application. The existing one-story masonry structure is to remain on proposed Lot 17.04; and

WHEREAS, review of the notices and publication indicates the Board has jurisdiction to hear this application; and

WHEREAS, the Applicant has produced the sworn testimony of Mark Lescavage, PE. (Site Engineering), and David Bloch, P.P. and A.I.C.P. (Planning) who were accepted by the Board as an expert in his or her field and/or as credible fact witnesses; and

WHEREAS, the following exhibits were submitted with the application, reviewed by the Board and shall be considered marked as in evidence as follows:

- A-1** Plans entitled “Minor Subdivision for Tic-Tac-Toe Development, LLC” prepared by Mark Lescavage P.E., of Maser Consulting P.A., dated October 18, 2019 consisting of two (2) sheets.
- A-2** Plans with Revisions to A-1 last dated March 11, 2020.
- A-3** Aerial Exhibit depicting subject premises and comparable lot sizes in the vicinity.

WHEREAS, the Planning Board has reviewed the testimony and reports of its professionals; and

WHEREAS, the Board determined to declare the application “Complete” by granting the submission waivers requested as more fully outlined in testimony which were all “temporary waivers” where the submission is now required as a condition of this approval; and

WHEREAS, a public hearing was held on March 11, 2020; and

WHEREAS, members of the public appeared and provided testimony and/or asked questions; and

WHEREAS, the Planning Board of the Borough of Tinton Falls having considered all of the evidence, exhibits and testimony presented makes the following findings of fact and conclusions of law:

1. The Board has jurisdiction to hear and decide this application.
2. Applicant is the owner of the property upon which it seeks Minor Subdivision Approval.
3. The premises are in the NC (Neighborhood Commercial) Zone.

4. The Applicant has requested the following variances;
 - a. Section 40-28.E-Schedule B of the Ordinance requires a minimum lot area of 20,000 square feet, whereas 14,400 square feet is proposed for Lot 17.05.
 - b. Section 40-28.E-Schedule B of the Ordinance requires a minimum lot depth of 200 feet, whereas 120 square feet is existing and proposed for both Lot 17.04 and Lot 17.05.
 - c. Section 40-28.E-Schedule B of the Ordinance requires a minimum rear yard setback of 40 feet, whereas the existing building steps are setback 35.9 feet from the northern property line.
 - d. Section 40-33.D.5.m of the Ordinance states that fences and walls in side and rear yards shall not exceed 6 feet in height, whereas the zoning table indicates a 7 foot wall exists.
 - e. Section 40-39.A.2 of the Ordinance states that no loading or parking spaces shall be located in any required buffer area, whereas parking spaces currently exist within the required buffer area.
 - f. Section 40-39.A.4 of the Ordinance states that any parking lot with 6 or more spaces shall be set back a minimum of 25 feet from any lot line and street right-of-way, whereas a 10.1 foot setback is provided.

With respect to the variances noted as “a” and “b” above, both these variances arise from recent Borough wide rezoning and a change to the bulk requirements of the NC Zone. These modifications result in “unintended consequences” in certain developed portions of the Borough. The Board Planner counselled the Board on the process by which the bulk requirements of the zone were modified, and her testimony is incorporated herein by reference. Those zoning modifications were primarily targeted at other areas of the NC Zone, where the Borough saw a need to drive lot sizes to larger sizes.

The property in question is in an area of the Borough which is both fully developed and where the drive for larger lot sizes may not be a consideration. The Board further notes that the

Applicant can subdivide with more conforming lots except for the location of the existing building. Thus, the Applicant is not creating any more lots than would otherwise be permitted on this property. Indeed, the Board had previously granted a subdivision for this property similar to the one sought here.

With respect to the variances noted as “c”, “d”, “e” and “f”, each variance is a pre-existing non-conformity. The variances are unaffected by this application and approval and relate to setbacks or uses in buffers. There is no exacerbation of these variances as they relate to impacts on existing surrounding properties. In other words, these conditions remain unchanged related to any impact on those neighbors that exist before the subdivision.

The Board finds that the Applicant addressed, through its witnesses, both the “Positive and Negative Criteria” in support of the variance requests. Although the Board incorporates by reference all that testimony in its decision, this resolution highlights a few.

The proposal and the use clearly promote the health and general welfare of both residents of Tinton Falls and surrounding communities. Commercial activity in the NC Zone is a beneficial use to all that avail themselves of this type of facility. Furthermore, in the MLUL and the Borough’s Master Plan, promotion of a variety of commercial opportunities is a clear goal and purpose.

The Board further notes that any development on the proposed new lot will be subject to Site Plan Approval.

5. The Board further finds, with respect to the requested variances and waivers that the purposes of the Municipal Land Use Act will be advanced by the deviations from the zoning ordinance requirements and the benefits of the deviations will substantially outweigh any detriment.

6. The Board further finds that all the requested variances can be granted without substantial detriment to public good or substantial impairment of the intent and purposes of zone plan and zoning ordinance. Accordingly, the Board grants such variances.

7. The Board also finds that the applicant has satisfied its burden of proof pursuant to N.J.S.A. 40:55D-1 et seq. upon the meeting of certain conditions.

NOW, THEREFORE, BE IT RESOLVED that this resolution serves as a memorialization of the Board's decision to Minor Subdivision Approval with temporary submission waivers, and bulk variances consistent with A-1 and A-2 subject to conditions as follows:

1. Applicant shall obtain all state, county and local government approvals as required by law.
2. Applicant shall pay all fees, post all bonds and pay all taxes as required by law and ordinance.
3. The zoning schedule should be revised to reflect the recent Ordinance changes for lot area (20,000 sf), lot width (100 ft) and lot depth (200 ft).
4. The applicant shall indicate if the subdivision will be filed by deed or map. Copies of all deeds and sight triangle easements, along with metes and bounds descriptions, shall be submitted for review and approval by the Board Engineer and Borough Attorney.
5. Sight triangles are indicated on Lot 17.05. The dimensions shall be revised in accordance with Section 40-26.U of the Ordinance.
6. Section 40.26.P of the Ordinance states that all monuments shall be installed according to N.J.S.A 46:23-9.12 (NJ Map Filing Law). Pursuant to NJ Map Filing Law, the plans shall be revised to clearly label proposed monuments at all

intersections of new lot lines with existing R.O.W. lines. A monument shall be required at the intersection of the western property line of proposed Lot 17.05 and the right-of-way line.

9. The applicant shall submit certification from the Borough Tax Assessor that the proposed lot numbers have been approved.

10. The Plans shall locate the section of wall called out as 7 feet high. (See Variance 4(d))

BE IT FURTHER RESOLVED that a notice shall be published in the official newspaper of the Borough and a certified copy of this resolution shall be forwarded to the Applicant.

Offered by: _____

Seconded by: _____

ROLL CALL

Chairman Lodato _____
Councilman Nesci _____
Crowley _____
Markoff: _____
Brown _____

Mirachi _____
Romanov: _____
Clayton _____
Natter _____
Wallace _____
Hamilton _____

This Resolution adopted _____ memorializes the action taken at the _____ meeting of the Tinton Falls Planning Board with the roll call vote as noted above. I further certify that the foregoing is a true copy of the Resolution of the Tinton Falls Planning Board.

Trish Sena
Planning Board Secretary