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**MARLBORO TOWNSHIP PLANNING BOARD  
AMENDED RESOLUTION PB 1028-08**

<p><b>In the Matter of Shamrock @ 79, LLC for Final Approval of Phase II In Order to Demolish the Existing Fireside Bar &amp; Grill and Construct a Family Restaurant &amp; Bar (6,663 Square-Foot, 222-Seat Facility) in Two Phases, with Associated Site Improvements.</b></p>	<p><b>FINDINGS OF FACT AND CONCLUSIONS OF LAW</b></p> <p>Block 415, Lots 31 Marlboro Township, Monmouth County Zone: C-5 Community Commercial II</p> <p>Application No. PB 1028-08 Approval Date: June 15, 2011</p>
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**BE IT RESOLVED**, by the Planning Board of the Township of Marlboro (Board) that the action of this Board on June 15, 2011, in this matter is hereby memorialized by the adoption of this written decision setting forth the Board's findings and conclusions.

**RELIEF SOUGHT AND JURISDICTION**

1. The applicant proposes to demolish the existing Fireside Bar and Grill and construct a family restaurant/bar in two phases with associated site improvements. The proposed restaurant/bar will have a floor area of 4,775 square feet and 58 seats in Phase I. Phase II will consist of the conversion of a 1,888-square-foot storage area into 154 additional restaurant seats plus the addition of ten more bar seats, for a total building area of 6,663 square feet. The plans have been revised to include an attached 338-square-foot indoor trash enclosure. Site improvements are proposed in two phases. Phase I was given preliminary and final approval on April 21, 2010. Final approval for Phase II is now granted, pursuant to the applicant's proofs that they have received sewer connection permission.

The subject property contains an existing commercial structure and two accessory buildings. All of the existing structures will be removed. The lot is undersized and is triangular in shape and situated on the east side of Route 79 (South Main Street) near the municipal boundary with Freehold Township. The southeastern boundary of the parcel is a wetlands corridor which substantially constrains the development of the lot.

2. The subject 3.6-acre property contains 530 feet of frontage along the east side of NJ State Highway Route 79, approximately 138 feet north of the municipal boundary with adjacent Freehold Township, Monmouth County, within a C-5 Zoning District. Currently, the site contains a one-story tavern with associated walks/patio, an accessory garage, a sports court, and a gravel parking area. The rear property line is traversed by a tributary to the Tepehemus Brook, and contains associated wetlands and wetland buffers.

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3. The subject of this application is within the jurisdiction of this Board. The Board has acted within the time required by law.

**THE APPLICANT**

4. The owner and applicant is Shamrock @ 79, LLC.
5. The Applicant/owner has certified that all property taxes for the subject property and all escrow fees required under the applicable ordinance(s) for such an application have been paid. This certification includes an agreement to pay all future monies due under the escrow ordinance for consultants and other professional work on the property.
6. The Applicant/owner has submitted an Affidavit of Proof of Service of Notice published in the Asbury Park Press. The Proof of Service comports with the notice before the Board that this matter is of the character that the Applicant has presented to the Board.

**THE HEARINGS**

7. A public hearing took place with regard to this application.
  - a. On June 15, 2011 a hearing took place before the Marlboro Township Planning Board at the Marlboro Municipal Building, 1979 Township Drive, Marlboro, NJ 07746-2299.

**PLANS PRESENTED**

8. The Board reviewed the following documents:
  - a. May 16, 2011 correspondence from applicant's attorney.

**OTHER DOCUMENTS REVIEWED BY THE PLANNING BOARD**

9. The Board reviewed the following documents submitted by the Applicant:
  - a. None

**EXHIBITS PRESENTED**

10. The following exhibits were presented to the Board:
  - a. None.

**TOWNSHIP EXPERT REPORTS**

11. At the hearing, the Board considered the following reports presented by Township officials:
- a. None.

**TESTIMONY AND PUBLIC INPUT**

12. The Applicant and its attorneys presented the following witnesses:
- a. The Applicant was represented by Martin Pflieger, Esq., Harter & Pflieger, LLC, 21 Route 537, Colts Neck, NJ 07722. Mr. Pflieger appeared and testified that applicant had obtained preliminary WMUA approval so that the site can contain 222 seats, and that prior to obtaining a Certificate of Occupancy, it was contingent upon his client to make sure that that property has been hooked up to sewer services and that proof has been provided to the Board Engineer, Laura Newmann. He stated that with the installation of all dry lines for sewers, the site would be reviewed by the Board and Township Engineers.
  - b. Mr. Pflieger introduced his engineer, Mr. Leber, who testified that the applicant will comply with all Board requirements as contained in the resolution of approval.
13. The following Township staff gave advice to the Board:
- a. Richard S. Cramer, P.P., Planner Board Planner. The Board professional reviewed the standards for approval of this application and gave opinion regarding its legitimacy.
  - b. Laura Newmann, P.E., Planning Board Engineer. The Board professional reviewed the standards for approval of this application
  - c. Michael W. Herbert, Esq., Planning Board Attorney. The Board professional reviewed the standards for approval of this application and gave opinion regarding its legitimacy.
14. Members of the public who testified with regard to the application:
- a. None.

**FINDINGS AND CONCLUSIONS REGARDING  
FINAL PHASE II APPROVAL**

15. Nature of the application:

- a. The Applicant proposes to remove the existing site improvements and construct a phased development for a restaurant/tavern. The Phase I development includes the construction of a 4,775 s.f. one-story restaurant and tavern, containing 58 seats with an attached 1,888 s.f. storage area. The restaurant also contains a 338-square-foot attached indoor trash enclosure. A 25 foot wide full movement drive is proposed to access the site from Route 79, and parking is proposed to accommodate 68 vehicles. Public water service will be extended from Route 79 to service the restaurant. Two (2) underground detention basins, which will ultimately discharge to the wetlands, are proposed to handle the increase in stormwater runoff.
- b. The Phase II development of the site includes the following: conversion of the 1,888 s.f. storage area to restaurant use, thereby providing an additional 154 seats, the addition of ten more seats at the bar, reconfiguration of the parking area to provide an additional 22 spaces resulting in 90 total parking stalls, extension of public sanitary sewer service to the site via connection to an existing main on the adjoining Western Monmouth Utility Authority property
- c. Parking. The parking requirements are as follows:

	<b>REQUIRED SPACES</b>	<b>PROPOSED SPACES</b>
Phase I	23 spaces	68 spaces
Phase II	57 spaces	22 additional spaces
<b>TOTAL</b>	<b>80 spaces</b>	<b>90 spaces</b>

The above requirement is based upon 1 space per 200 square feet for the additional 1,888 s.f. area (8 spaces); 1 space for 2 seats in the bar (28 seats results in 14 spaces); and 1 space per 3 seats in the restaurant (194 seats results in 66 spaces). The Applicant is only counting seats physically located at the bar at 1 space per 2-seat requirement. There is table service in the bar area and that this area will function as part of the restaurant.

- d. Sewer and Water. Public water will be provided by Gordon's Corner Water Company. A sewer lateral was proposed for Phase II, which is now approved due to applicant's having obtained preliminary sewer connection approval.

16. Board findings:

- a. The Board grants final approval for Phase II to allow for 222 seats in the restaurant, as long as the Board professionals receive proof of a sewer hook-up.

**CONDITIONS REQUIRED**

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17. The Board finds that in order to address the concerns expressed in the course of the hearing, and to limit the relief to that which is reasonably necessary to satisfy the Applicant's legitimate requirements, the relief granted is subject to the following conditions, and non-compliance shall result in the rescission of this approval:

- a. Applicant agreed that the basement would not be used except for storage.
- b. Applicant shall use silt fence around all construction activities, in accordance with Township ordinances.
- c. Applicant shall comply with the Marlboro Township back fill ordinance regulations for the site.
- d. The Applicant shall comply with all requirements of the Police officials.
- e. Applicant shall comply with the comments contained in the report of Township Planning Board Engineer CME Associates, by Ernest J. Peters, Jr., P.E., P.P., CME, with attached Technical Engineering Review No. 1.
- f. Applicant shall comply with the comments in the report of Marlboro Township Fire Sub-Code Official/Fire Inspector John W. Borden.
- g. Applicant shall comply with the comments in the reports of T & M Associates by Richard S. Cramer, PP, AICP, Board Planner, excluding the exceptions placed upon the record and agreed to by the Board.
- h. As noted, the site is partially constrained by freshwater wetlands. The freshwater wetlands area has been reviewed by the NJDEP and a buffer of fifty feet is required. A copy of the NJDEP Letter of Interpretation should be submitted to the Planning Board.
- i. Applicant shall monitor and remediate any flooding damage on neighboring properties.
- j. Any Certificate of Occupancy is contingent upon applicant's property being hooked up to the sewer system and providing proof of such to the Board Engineer.
- k. Installation of all dry lines for the sewer system is subject to inspection by the Township Engineer.
- l. Applicant must obtain all other required approvals, including:
  - i. Monmouth County Planning Board
  - ii. NJ Department of Transportation
  - iii. Freehold Soil Conservation District
  - iv. Marlboro Township Fire Bureau
  - v. Marlboro Township Police Department
  - vi. County Board of Health
  - vii. Gordon's Corner Water Company
  - viii. Any other local, county, state or federal jurisdictions that may require approval.

**VARIANCES REQUESTED AND GRANTED**

18. The Applicant requested the following variances:

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a. None.

**CONCLUSION**

Based upon the foregoing, the Marlboro Township Planning Board, at its June 15, 2011 meeting, voted to approve Phase II of the application.

This Resolution of Memorialization was adopted on July 10, 2011 by a vote of the majority of the members present, who voted to approve the relief sought by the Applicant.

The date of decision shall be June 15, 2011, except that the date of the adoption of this memorializing resolution is the date of decision for purposes of (1) mailing a copy of the decision to the Applicant within ten (10) days of the date of the decision; (2) filing a copy of the decision with the administrative officer; and (3) publication of a notice of this decision. The date of the publication of the notice of decision shall be the date for the commencement of the vesting protection.

**ROLL CALL VOTE ON APPLICANT'S  
REQUEST FOR APPROVAL OF SEWER CONNECTION  
JUNE 15, 2011**

Moved By: *Pollak*  
Seconded By: *La Rocca*  
Those in Favor: *Barenburg, Bergh, Betoff, Pergament,  
Pollak, Josephs, La Rocca, Hornik, Messinger*  
Those Opposed: *None*  
Those Absent: *Gupta*

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**ROLL CALL VOTE ON MOTION TO APPROVE  
RESOLUTION OF MEMORIALIZATION, JULY 20, 2011**

Moved By: *Pollak*  
Seconded By: *Barenburg*  
Those in Favor: *Barenburg, Bergh, Pargament, Pollak,  
La Roche, Holnik, Messenger, Rosenwald*  
Those Opposed: *none*  
Those Absent: *Butoff, Gupta, Josephs*

**CERTIFICATION**

We do hereby certify that the foregoing resolution was adopted by the Marlboro Township Planning Board at its regular meeting held on July 20, 2011. This resolution memorializes formal action taken by the Board at its regular meeting held on June 15, 2011.

  
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Gerald Bergh, Vice Chairman  
Marlboro Township Planning Board