

LONG ISLAND PLANNING BOARD

AMENDED FINDINGS OF FACT AND CONCLUSION OF LAW

Project: EBTAC, LLC. Garfield Street Project, Long Island, Maine, Tax Map Lot 313

Applicant: EBTAC, LLC. represented by Mr. Anthony Donovan.

Date of Approval: October 27, 2009

Pursuant to the provisions of the Long Island Land Use Ordinances, the Long Island Planning Board has considered the application of EBTAC, LLC. for the proposed establishment for the primary purpose of selling baked goods and finds the following facts:

1. The applicant is seeking Site Plan Review approval for Retail Establishment for the primary purpose of selling baked goods and a commercial kitchen facility for the preparation and sale of foodstuffs for consumption off premises.
2. The property under consideration is located at #3 Garfield Avenue, Long Island, Maine and is in the Island Business District (I-B). The property is identified on the Town Tax Map as Lot 313. Note that this parcel was identified on previous tax maps as lots 97-H-3,4 .
3. The applicant has submitted sufficient evidence to demonstrate EBTAC's right, title or interest in the property under consideration.
4. The applicant's proposal to operate a Retail Establishment is listed as a permitted use in the I-B District.
5. Since the proposed use requires Site Plan Review, the applicant was required to submit an application to the Long Island Planning Board. As such, the Long Island Planning Board reviewed said application and granted the applicant's original request at the September 14, 2004 meeting, with conditions. (See Attached). This previously approved site plan is hereby amended by this amended site plan.
6. The Long Island Planning Board reviewed the application against the applicable criteria outlined in the Long Island Land Use Ordinances considered the project's application.
7. Water Supply: individual private well will serve the proposed development.
8. Utilities: the proposed development will be served by below ground utility lines.
9. Septic Waste Disposal: a private subsurface septic system will serve the proposed development.
10. Vehicular Access: access to the proposed development will be from Island Avenue, Long Island, Maine.

11. The applicant has demonstrated that the area under consideration is not located within a Flood Hazard Area.

12. The applicant has demonstrated that the proposed development will be built on soils that are appropriate for both the required foundations and septic systems.

13. The applicant has demonstrated that the proposed development will not have an adverse impact on both the quantity and quality of groundwater in the area.

14. The applicant has demonstrated that the proposed development will not have undue impact on historic sites, natural areas, visual quality, or wildlife and/or fisheries habitat.

CONCLUSION

The Long Island Planning Board has reviewed the complete application for the project under consideration and hereby finds that the applicant has met all of the applicable standards set forth by the Long Island Land Use Ordinance. Furthermore, the Planning Board grants final approval of the project on this October 27, 2009 provided that the nine (9) following conditions are met and maintained.

October 27, 2009



Curtis Murley, Chairman
Town of Long Island Planning Board

CONDITIONS

1. EBTAC, LLC.'s ("EBTAC") application and submissions for a Change of Use and Site Plan Review indicate that it will renovate and enlarge the existing residence on Lot 313 into a retail establishment for the primary purposes of selling baked goods and into a commercial kitchen facility for the preparation and sale of foodstuffs. The on-site seating proposed and approved is limited to the capacity of the subsurface wastewater disposal system which shall be designed, installed, operated and maintained in conformance with State and local plumbing codes. The on-site seating may be located either indoors or outdoors.

2. EBTAC's application requests a Change of Use and Site Plan Review and approval to renovate and enlarge the existing residence on the property into a retail establishment to sell prepared baked goods and into a commercial kitchen for catering and sale of prepared foodstuffs. During the appeal proceedings EBTAC's principle, Mr. Donovan, indicated that in addition to the sale of baked goods and prepared food products at the facility, that EBTAC intends to conduct other incidental retail sales at the property. The Board is concerned that such incidental retail sales were not the subject of EBTAC's application, the Board's review and the Board's Site Plan approval, and if not limited, might create conditions at the property that no longer remain in compliance with the Standards under Article 10 F of the Land use Ordinance. In the event that the level of such proposed incidental sales activities escalates so that the type and level of activities materially deviate from the primary use for retail sales of baked goods with incidental other retail sales and for a commercial kitchen for preparation and sale of foodstuffs to be consumed off the premises, EBTAC must satisfy applicable requirements under Article 10 of the land Use Ordinance relating to revisions or amendments for site plan approval.

3. EBTAC's proposed retail establishment facility on lot 313 will rely on the use of the existing (and planned to be enlarged) subsurface wastewater disposal system located on the adjacent property, lot 312, identified on previous tax maps as lots 97-H-1,2 and 21, currently owned by Anthony J. Donovan and Philip C. Fabiano. EBTAC's proposed activities on lot 313 will also rely on the use of the existing and planned location and operation of sewer pipes, collection tanks and lift pumps on lot 312. The Board's grant of Site Plan approval to EBTAC is conditioned on EBTAC's seeking and obtaining all necessary authorizations to site, locate and operate the subsurface wastewater disposal system and accessory lines and structures on lot 312 to serve lot 313. The subsurface wastewater disposal system shall be designed, installed, operated and maintained in conformance with State and local plumbing codes.

4. The Board's Site Plan approval is also conditioned on EBTAC or its successors maintaining continuous and uninterrupted wastewater disposal service to lot 313 in conformance with State and local plumbing codes. Future uses and activities on lot 312 must not interfere with the capacity of lot 312 to continue to supply the activities on lot 313 with a subsurface wastewater disposal system in accordance with State and local plumbing codes. To address these concerns EBTAC has agreed to secure access and utility easements tying lot 313 with lot 312 for subsurface wastewater disposal service to lot 313. The easement documents shall be subject of review and approval by the Town's legal counsel. Upon approval by the Town attorney, EBTAC shall record these instruments in the Cumberland County Registry of Deeds and thereafter present documentation to the Town that such recording has been accomplished. EBTAC shall complete the execution and filing of the access and utility easements before seeking a building permit. Any change to the approved and recorded easements by EBTAC or its successors will require approval by the Planning Board and, except for emergency situations, strict compliance with this condition shall be subject to enforcement under Article

10 H of the Land Use Ordinance.

5. The proposed renovations of the existing structure and addition are to be designed and constructed in accordance with all applicable codes and standards.

6. The second floor area of the proposed renovated structure and addition is not to be used for food service to customers,

7. EBTAC will install and maintain a minimum of two (2) parking spaces as depicted and located on the plan entitled "Site Plan Proposed Retail Establishment", dated January 14, 2004 as prepared and submitted to the Planning Board by Land Use Consultants on January 28, 2004 (the "Plan"). Access to the parking area shall be from Island Avenue and constructed in the location depicted on the Plan. The parking area and access road shall be designed and constructed in accordance with the accepted practices, procedures and standards of the Cumberland County Soil and Water Conservation District (the "CCSWCD"). EBTAC shall have obtained review from the CCSWCD for the design, installation and operation of the parking area and access road before applying for building permit and shall provide the Code Enforcement Officer with evidence of the CCSWCD review. EBTAC and its successors shall be responsible for ensuring that the access road and parking area continue to be properly maintained so as to prevent erosion or discharge of sediments from the site onto adjacent properties or public ways.

8. EBTAC wishes to maintain the opportunity for future use of the existing well depicted on the Plan on lot 313. EBTAC will adequately secure the well so that it is properly protected from contamination.

9. The Planning Board's approval of this application is dependent upon and limited to the proposals, plans and supporting documents submitted and affirmed by the applicant in connection with its application and the plans, documentation and other submissions and information that have been specifically presented to the Planning Board in the proceedings related to the application. The applicant may not amend or change the specific authorizations granted hereunder, and except for de minimis or field changes under Section 10 H. 12 that the Code Enforcement Officer may approve, must obtain further authorizations for any changes or modifications of the specific authorizations and approvals granted hereunder. None of the above conditions shall be interpreted to prohibit permitted or accessory uses on the property otherwise allowed in the I-B Island Business Zone subject to EBTAC's obtaining a revision or amendment of this approval in accordance with the applicable requirements of Article 10 of the land use ordinance.