

EXHIBIT B

EXISTING VIOLATIONS

Existing Violations of Prior Planning Board Resolutions should be addressed before any new variance application is considered.

A Planning Board Resolution 99-21 from May, 1999 addressed the requirement to store the garbage dumpster in a fully enclosed section of the new building expansion accessible by a standard garage door opening in response to the public's objection that expansion as originally proposed would place dumpster closer to residential areas and be visible from parking areas. As follows:

4. The applicants propose to alter an existing commercial building by expanding an existing restaurant and eliminating any other use of the building except for an apartment on the second floor of the existing structure, which is used by the owners, who also operate the restaurant. The existing structure will be expanded to provide for additional trash enclosures and indoor storage space for the restaurant.

B. The applicant will submit a modified plan to the Planning Board Engineer correcting the Zoning Schedule to accurately reflect existing conditions and correcting the placement of the proposed trash enclosures over existing storm water system.

In the surveyor notes made part of the application, a note states that in early June, 2020 "no recent building construction was observed." See picture below taken just weeks before-hand. At time of surveyors' visit, the enclosure was being painted and construction debris may have been present.

On May 2, 2020, the required dumpster enclosure per Resolution 99-21 was converted to interior storage space, the garage door was removed, opening was reframed, and dumpster placed outside. It was done without Planning Board approval or a Change of Use permit, if required. Below are pictures of the construction in progress and a resulting garbage condition observed on Sunday, June 21, 2020:



Overflowing garbage that could have been hidden in proper enclosure. Now in full view of residential area, sidewalk and customers in the parking lot. Violates existing code for placement of dumpsters in GB1 commercial zone.



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The following statement was prepared and signed by the attorney representing the applicant. Per Notice of Application for Development received July 6, 2020, it states:

***“In order to attach said walk-in freezer, the existing shed will be moved towards Austin Ave. The remainder of the site will not change.*”**

However, at the time this Application was submitted, the proposed relocation of the shed had already occurred and the rear corner of the building was enclosed and the dumpster storage area removed in violation of Planning Board Resolution 99-21. In recent conversation with this attorney, she stated that she was unaware that this reconstruction had taken place and that the shed was moved. She acknowledged that she was in possession of Resolution 99-21 requiring an enclosure for the dumpster within the building.



Exhibit B continued

Township of Lower Code 400-17 E3, E6.

(6) A minimum buffer area of 20 feet in width shall be provided along any common property line with a residential district or residential use (see § 400-59B for additional standards).

(5) All areas not utilized for buildings, parking, loading, access aisles and driveways or pedestrian walkways shall be suitably landscaped with shrubs, ground cover, seeding or similar plantings and **maintained in good condition.**

