

RESOLUTION
ZONING BOARD OF ADJUSTMENT
BOROUGH OF MILLTOWN
MIDDLESEX COUNTY, NEW JERSEY

WHEREAS, Valley National Bank (the “Applicant”) has applied to the Zoning Board of Adjustment (the “Board”) for use variance, preliminary and final site plan approval, including bulk variances to construct a proposed Valley National Bank to be located on property designated as Lot 3, Block 51 and having a street address of 86 North Main Street, Milltown, New Jersey; and

WHEREAS, proper proof of service as required by the New Jersey Statutes and Municipal Ordinances has been furnished in reference to the approvals sought; and

WHEREAS, public hearings were held on August 2, 2006, October 4, 2006, January 3, 2007, February 7, 2007 and March 7, 2007; and

WHEREAS, the Board took testimony of the Applicant through the following witnesses: Michael Ghabrial, (Senior Vice President in charge of Real Estate); Vito Acquafredda, A.I.A.(Architect and Construction Project Manager); Joseph Hanrahan, P.E. (Site Plan Engineer); Salvatore Corvino, A.I.A., P.P. (Architect and Professional Planner); Robert Edgar (Environmentalist); Nicholas Verderese, P.E. (Traffic Engineer); and R. Michael McKenna, P.E. (Civil Engineer); and

WHEREAS, the Board considered the reports and comments of the Board’s professionals, the Board Engineer, Michael McClelland, P.E., reports dated May 31, 2006 and September 28, 2006 and Board Planner, Raymond Liotta, P.P., reports dated May 10, 2006, July 27, 2006 and October 2, 2006; and

WHEREAS, Applicant presented and placed into evidence the following Exhibits: A-1 (Historic Report from Hunter Research dated July 13, 2005); A-2 (Architectural Site Plan,

Building Floor Plan and Building Elevations dated February 6, 2006); A-3 (Larger version of Floor Plan) A-4 (photograph depicting site from the northeast side of North Main Street looking south across Main Street toward the property in question); A-5 (photograph depicting the northeast side of North Main Street looking west across North Main Street towards the property in question); A-6 (Rendering of proposed bank and site improvements superimposed on the photograph of the site); A-7 (rendering of proposed bank and site improvements superimposed on the existing site); A-8 (complete architectural rendering showing the proposed landscaping and signage); A-9 (rendering showing existing lighting with views looking southerly and westerly); A-10 (Exhibit showing building materials, specifically windows); A-11 (Exhibit showing building materials, specifically the roof); A-12 (site plan showing the ground signage and directional signs); A-13 (Drawing depicting wall signs, elevations with the building signs); A-14 (Rendered site plan dated January 25, 2006); A-15 (Phase I Environmental Site Assessment dated July, 2005); A-16 through A-20 were exhibits that were pre-marked but never entered); A-21 (Architectural plan, site plan and elevational drawings dated September 20, 2006); A-22 (Architectural plan, site plan and elevational drawings dated September 20, 2006); A-23 (Site plan showing dimensions of free-standing signs and directional signs dated October 4, 2006); A-24 (Architectural plans showing dimensions of tower signs and drive-thru signs dated October 2, 2006); A-25 (Rendering of proposed site and site improvements superimposed on a photograph of the site viewed from the northeast side of North Main Street looking south); A-26 (Rendering of proposed bank and site improvements superimposed on photograph of site; view of northeast side of North Main Street looking west); A-27 (Rendering of proposed bank, landscaping and signage, view of west and north elevations at entry driveway looking south); A-28 (Rendering of proposed bank, landscaping and signage, view of east and north elevations at main entry and drive-thru canopy exit driveway looking west); A-29 (existing building exterior elevation and

details); A-30 (existing building exterior elevation and details); A-31 (existing house conditions); A-32 (existing house conditions, cellar and crawl spaces); A-33 (existing house conditions, cellar and crawl spaces); A-34 (existing building interior, first, second and attic levels); A-35 (aerial photograph showing surrounding zoning); A-36 (school pedestrian traffic observation); A-37 (exhibit of drive-thru stacking dated October 4, 2006); A-38 (site plan with overlay dated January 25, 2007); A-38 (site plan showing SU30 path (truck)); A-39 (Report on existing building condition dated January 9, 2007); and

WHEREAS, adjoining property owners and interested citizens appeared, and did present testimony and did question the Applicant, and the Applicant's expert witnesses; and

WHEREAS, the Board, after due and careful consideration of all testimony, reports and Exhibits related to this Application, does hereby make the following Findings of Fact and Conclusions of Law:

1. The subject property is located at 86 North Main Street on the south side of said street between Cottage and West Church Streets in the Borough of Milltown and is designated as Block 51, Lot 3 on the Tax Map of the Borough of Milltown (the "Property").
2. The subject property is owned by Dr. Bhudev Sharma.
3. The Applicant is under contract to purchase the subject property.
4. The subject property contains approximately 31,680 square feet.
5. The subject property is in the B-1 zoning district.
6. A residential apartment building exists to the north of the property in question and a parking lot for a commercial building is located to the south of the property in question along North Main Street. A school is located to the west of the property in question and the Provident Bank, also with three drive-thru lanes is located directly across the street to the east.

7. The applicant presented several exhibits, namely A-29 through A-35, showing the dilapidated condition of the existing medical office use on the property in question as well as the environmental dangers which exist in the interior of the building.

8. The Applicant initially filed a proposal before the Zoning Board, wherein the Applicant proposed the demolition of the existing building and the construction of a 3,740 square foot, 3 lane drive-thru, 2 ATM's, branded bank, with parking, landscaping, storm water drainage and related improvements.

9. Throughout the Zoning Board of Adjustment application, the Borough ordinances permitted the bank use for the property in question but did not permit the drive-thru, thus a use variance is required.

10. Bulk variances were required in connection with the application because a loading zone and trash enclosure were not proposed. In addition, signage variances were required for the number, area, height, set back and illumination of the free-standing sign as well as the illumination of an area of the building side/rear wall signs. The applicant also sought variances for ground directional signs, high wall mounted directional signs, high wall mounted banking hours sign and the drive-thru canopy signs.

11. During the course of the proceedings there were certain design changes to the site plans and architectural plans as originally submitted from Schoor DePalma and CSR Group respectively. These changes included moving the drive-thru portion of the development from the side (south) side of the building to the rear (west) side of the building; decreasing the width of the exit onto North Main Street so that there would be less conflict of vehicles exiting the egress drive after proceeding through the drive-thru. In addition, the architectural design of the building was modified to be less in conformance with the branded bank and more in conformance with the architecture and design of other commercial buildings along North Main Street in Milltown.

The signage was revised to more closely conform with Borough ordinances. Banked parking was eliminated. The buffer between the bank and the school use to the west was increased. These changes were made pursuant to the comments of the Board's Professionals, namely, Michael McClelland, P.E. and Raymond Liotta, P.P. as well as comments made by various Board members. These changes resulted in the addition of another bulk variance to wit a parking variance to permit 19 spaces, which were not sufficient under the ordinance requirements for this type of use.

12. The following individuals were called by the Applicant to give testimony in support of the application in the fields specified: Joseph Hanrahan, P.E. and R. Michael McKenna, P.E. (Site Plan Engineering); Salvatore Corvino, P.P., AIA (Architect, Land Use, Planning); Robert Edgar (Environmental Engineering); Nicholas Verderese, P.E. (Traffic Engineering) and Vito Acquafredda (Architect and Construction Project Manager). Each was accepted by the Board as an expert in the specified field.

13. The Applicant also presented Michael Ghabrial, the Applicant's Senior Vice President in charge of Real Estate.

As to the Use Variance:

14. The Applicant provided evidence indicative of proving the particular suitability requirement of the positive criteria. Specifically, Messrs. Hanrahan, Verderese and Corvino testified that the present use does not have any on site parking and that patients of the existing medical office park on Main Street. The proposed use tends to reduce the parking on Main Street. Mr. Ghabrial gave testimony that the bank's demographic studies indicate that there is a community need for another bank in the Borough of Milltown. This testimony was further supported by that of Mr. Hanrahan. Moreover Mr. Verderese testified that from a traffic engineering standpoint the proposed use was particularly suited to the property in question

because the traffic volumes that the site would generate are similar to those that already exist on Main Street in the Borough and the site was large enough to accommodate the drive-thru function.

The Board finds that the Applicant satisfied special reasons (the positive) criteria because the testimony of the applicant's experts tended to show that several of the purposes of the municipal land use law are advanced by this application. Initially Mr. Corvino testified that the application would satisfy the general welfare pursuant to N.J.S.A. 40:55D-2(a) in that approval of the proposed development would replace a deteriorated old residence with a multi-million dollar ratable that will support and rejuvenate the Main Street corridor of Milltown Borough. Mr. Corvino testified that the drive-thru promoted better public access. Mr. Corvino testified that the proposed bank will be set back from the curb at a much greater distance than the existing mixed use residential-office use therefore satisfying this purpose of the municipal land use law of N.J.S.A. 40:55D-2(c). Mr. Corvino testified that N.J.S.A. 40:55D-2(g) was likewise advanced in that the proposed development provided sufficient space in appropriate locations for a variety of uses and open spaces according to the respective environmental requirements. Mr. Corvino testified that the fourth goal of the municipal land use law that was advanced in that the proposed uses promoted a desirable visual environment through creative development techniques and good civic design by replacing a worn out structure with a new, carefully designed and landscaped site that will blend in well with the ongoing redevelopment along Main Street. Both Mr. Corvino and Mr. Hanrahan testified that the proposed application enhances aesthetics pursuant to the Municipal Land Use Law due to the revised design of the building being in keeping with the existing building architecture along the Main Street corridor. Mr. Hanrahan testified further that the proposed use encouraged the commercial use (as a Bank) in a zone where permitted. The application removes the non-conforming residential use as well as a structure that is badly in

need of repair. Mr. Vederese testified that when the site plan was re-designed to place the drive-thru lanes in the rear of the premises, this made the property safer from an internal traffic circulation standpoint. Mr. Hanrahan also testified that the lot coverage requirement of the zoning code is 75% for properties in that zone and the proposed project only requires 12% lot coverage. Additionally, with regard to impervious surfaces, the zoning code allows 90% and the project initially proposed 74% but ultimately was reduced to 67%, well within the Borough requirements. Also, while currently there exists no controlled on site drainage, the new development provides a modern storm water drainage facility which will be constructed in accordance with Borough requirements.

15. It was the Applicant's experts' testimony and opinion that the two foregoing paragraphs in this Resolution demonstrated that the proposed use as a bank with drive-thru service promotes the general welfare of Milltown Borough because the proposed site is particularly suited for the proposed use. The Board accepts the testimony of Messrs. Corvino, Hanrahan, Vederese and Ghabrial with regard to same.

16. Furthermore, the Board finds that the first prong of the negative criteria necessary to obtain a use variance, to wit, that the proposed use will not cause substantial detriment to the surrounding community at large has been satisfied. Based upon the testimony of Messrs. Ghabrial, Hanrahan, Corvino, Vederese and Edgar, the Board finds that the grant of the use variance will not cause substantial detriment to the public good and the surrounding neighborhood. To this end the Board accepts the testimony of the applicant's experts as follows:

a. Mr. Corvino testified that the proposed building would be safer than the existing building.

b. Mr. Ghabrial testified that no garbage, trash enclosure or garbage pickup was necessary as the Applicant hires cleaning people who come three times a week and remove the

trash from the premises, most of which is shredded documents. This proposed use will produce virtually no off-site impact in terms of trash disposal unlike many of the permitted uses existing on the Main Street corridor.

c. Mr. Edgar testified that the recognized environmental conditions in the Phase I Assessment (A-15) would be satisfied by the demolition of the existing building, namely, the removal of any above or below ground storage tanks for fuel and the removal of asbestos containing materials within the building such as pipe enwrappings and asbestos containing mud joints.

d. Mr. Hanrahan testified that every effort would be made to save as many trees on the existing site as possible.

e. Nicholas Vederese testified that the proposed use would not have a substantial negative impact on the adjacent roadway network. Specifically he stated that almost 50% of the traffic generated by the bank would come from the existing traffic stream so the bank would generate 80 new trips during the peak hour. He also stated that there are failing level of services that exist on Cottage Street, John Street and most of the driveways along Main Street, however, pursuant to a gap study he performed there were significant gaps that are available during a peak one hour period (over 200) so that there would not be a substantial adverse impact on traffic circulation along Main Street. Mr. Vederese also performed a limited study regarding pedestrian movements in close proximity to the site, which indicated that there would not be a great number of pedestrians (including school children) that walked in front of the site during the peak hours of operation of the proposed development. In fact, his findings were that the heavier concentrations of pedestrian traffic were to the north and south of the site. Vederese stated that locating the drive thru in the rear of the site does not create any hardship on the adjacent roadway network that the site can accommodate any queues that may occur. Specifically, Mr. Vederese testified

that the entrance and exit movements between the proposed site and the Provident Bank across the street do not conflict.

f. Mr. Corvino testified that the bank would not create any of the nuisance issues near residences as might accompany some other commercial uses such as noise, odor and dust. He also concurred with Mr. Vederese that the need for additional parking was non-existent and this meant that there could be increased buffering on the site.

g. With regard to the negative criteria and the enhanced level of proof required pursuant to Medici v. BPR, both Mr. Ghabrial and Mr. Corvino testified to the changing nature of banks over the years. Specifically, when Mr. Corvino began designing banks in the late 1980's and early 1990's there were less drive thrus or no drive thrus at all. ATM's were just coming out so not every bank had that technology. As time progressed, drive thrus became very prevalent in the industry. Because of that changes in the banking industry, including but not limited to online banking, call-in banking, ATM's, direct deposit and drive thru there's less pedestrian traffic into the bank, thus the drive thru become prominent and necessary. Mr. Vederese testified that he has never testified for a bank development that did not have a drive thru facility and that in this day and age the bank and the drive thru uses go hand in hand. Mr. Corvino testified that the provision of the Milltown Borough Ordinance, prohibiting the drive thru use does not seem to apply well to banks the way they are run today especially in downtown quarters such as Main Street where there are many mitigating circumstances in favor to allow banks to have drive thru lanes as modern banks virtually depend upon their drive thru for better customer satisfaction, convenience and increase their efficiency with the drive thru lanes. The Board determines that this testimony reconciles the Borough's omission of a drive-thru in this zone as a permitted use in this B-1 zone.

h. The proposed application is also otherwise consistent with the provisions of the Borough of Milltown Master Plan and Zoning Ordinance. Specifically in this regard the Master Plan and Zoning Ordinance both require that the town improve their commercial zone and the proposed application eliminates this pre-existing non-conforming mixed use residential/commercial use and provides an allowable commercial use which is permitted. Additionally, Mr. Corvino testified that the proposed application satisfied three goals of the B-1 District set forth on page 151 of the Milltown Zoning Ordinance for this commercial district in Milltown. First he said the encouragement of commercial activity to the mutual advantage of both the customers and merchants and the promotion of a public convenience of prosperity is satisfied by this application. Moreover goal 3 encouraging a maximization of off street parking facilities can service the commercial activity is likewise satisfied. Finally, as to goal number 4 of the Zone, which is to promote an aesthetically and visually harmonious development through the B-1 district is likewise satisfied. With regard to the Medici requirement the Board accepts the testimony as set forth above by the applicant's experts. The Board specifically finds that the grant of the use variance is not inconsistent with the intent and purpose of the Master Plan and Zoning Ordinance and that the applicant has satisfactorily reconciled the grant for the use variance with the ordinance's continued omission of the drive thru from those permitted in the B-1 zone for the reasons aforesaid.

As to the Bulk Variances:

17. The Board finds that the proposed application requires variances from the provisions of the Ordinance requiring a loading zone, a trash enclosure and from the parking requirements of the zone where 38 spaces are required by the Ordinance and 19 are provided. Mr. Ghabrial testified that the only truck that will come on the property is an armored car and they park in one of the normal sized spaces provided for in the site plan. They come in at

random hours during low peak times because the bank has to accept the cash and verify it. Other than that there are no deliveries. Inasmuch as there is no garbage pick, up this armored car which comes in once a week constitutes the sum total of deliveries the site anticipates. To this end, this allows the site to be pushed back so that the front yard setback now conforms whereas the present set back of the existing building does not conform according to Mr. Corvino. Moreover, Mr. Vederese reiterated Mr. Ghabrial's testimony by stating that he has testified on behalf of many banks and that there is never a vehicle bigger than a normal parking stall can handle on the site. To this end the loading zone makes no sense. He concluded that it would lead to more impervious coverage on the site with less green space and buffer. Mr. Hanrahan concurred that there would be minimal deliveries by the way of a step van, Fed-Ex truck or UPS truck, which required no need for a loading stall on the site in question. In this respect, he opined that it was much better to have less parking spaces with the opportunity for increased buffers. Moreover he stated that for this reason the grant of the bulk variance with respect to the loading zone would promote a better zoning alternative for the property in question. Mr. Vederese concurred in that conclusion as well. The Board agrees with the aforesaid testimony and specifically finds that the grant of the subject bulk variances would result in a better zoning alternative for the Borough of Milltown in that all the positive circumstances in granting the variances would outweigh any negative consequences with respect to the grant of these variances in light of the increased buffer that will result without having the loading zone or parking that complies with the ordinance requirements.

As to the Sign Variances:

18. Initially, Mr. Hanrahan testified as to the free-standing sign which is not permitted in the zone. The area of 22 square feet per sign face, its height of 8 feet, its set back 5 feet from the property line and its indirect illumination all constitute variances from the code provisions.

Mr. Hanrahan testified that the sign itself is needed because the applicant is not allowed to have a building sign on that side of the property facing the residential use. Thus with no building sign on that side facing the southbound traffic the free standing sign is necessary to allow visibility and safety for the vehicles traveling in an eastbound direction to locate the site and properly brake and get into the site for a safe movement. As to the front facade sign which is also illuminated, the Ordinance requires a height of 15 feet and a sign with a height of 32 feet is proposed. The south (labeled east) facade requires variances for its area of 34 square feet and its illumination. In addition, variances are required for the following directional signs proposed: 3 ground signs with an area of 2 square feet each and 1 wall mounted sign with an area of 8.3 square feet. The applicant proposed 1 wall sign near the doorway and 3 signs on the drive thru facility. Mr. Hanrahan testified that the same justification applies for the façade signs as well. As to the variance for the directional signs which are prohibited because they face the residential use, said signs were located approximately 100 feet away from that three story residence located on the west side of the property. They are only for directional purposes to help for onsite circulation and safety to effectuate the revised design of the property so that the intended circulation is followed by the motoring public. The wall sign identifies where the lobby is, and the the drive thru signs identify its location and where the ATM is, which is necessary for onsite circulation and safety. Mr. Vederese also presented testimony that the placement of the free standing sign was necessary to identify the site driveway due to its perpendicular nature to the roadway and the fact that it was not located in the site triangle. In addition he testified that the directional signs create less confusion for the site for circulation.

19. The Board finds that the positive criteria exist as the benefits of granting the sign variances substantially outweigh any detriment.

As to Preliminary and Final Site Plan Approval:

20. Joseph Hanrahan testified as the site exists, a portion of the property drains to the west towards the Joyce Kilmer school and a portion of the project drains towards the east onto North Main Street. Due to the minimal size of the property there's very minimal flow related to the drainage into these two areas. However, the project does propose two underground retention basins to reduce the flow to the two and ten year storm and meet the flows of the 25 year storm, which will be 24 inch pipes stacked in rows horizontally. They will store the water and with that volume they will be able to reduce the peak flows. In addition these detention basins will allow infiltration into the ground so while they're also detaining they will also be infiltrating into the ground. Mr. Hanrahan further testified that from a lighting perspective the project proposes ten acorn style light fixtures which will be 17 feet high and provide a minimum of a ½ foot candle through the parking areas of the property. After the revision to the site plans Mr. Hanrahan further stated that the site triangle easement on the north side of the property was unnecessary since the driveway was changed to an ingress driveway only. The plans also provide for a six foot high board on board fence along the south property line in addition to the aforementioned increase and landscaping to improve the buffer to the school property at the rear. As to the driveways Mr. Hanrahan testified that they conform to the Milltown Code requirements and create less conflicts and hence are safer. Mr. Hanrahan said that the proposal satisfies all the ordinance requirements for preliminary and final site plan approval. In addition he testified that the property in question was ADA compliant whereas the existing use had no ADA provisions *lie* whatsoever. Mr. Acquafredda testified at length as to the safety and environmental measures that will be taken on the site during the demolition and construction for the safety of the school children. Mr. Vedererse testified that the driveway design is safer than a majority of the driveways that are along Main Street and the safe ingress and egress helps with the pedestrian

vehicular conflicts along the project frontage. He also states that an SU-30 can circulate this site adequately. Mr. Vederese also testified that the drive thru would not create an unsafe queue during the peak hour. Mr. Vederese concluded his testimony by stating that the site plan provided safe and efficient ingress and egress, adequate parking and onsite circulation.

21. The Board finds that the Applicant through the testimony described above, has demonstrated that the proposed site plan will conform with preliminary and final site plan all Borough ordinances and design standards, that site drainage will function adequately, that site circulation is safe and efficient and that the grading, lighting and landscaping all meet recognized engineering standards. The Board accepts the testimony of Mr. Hanrahan and finds that all of the Milltown Borough Ordinances with regard to Preliminary and Final Site Plan have been met.

22. Moreover, the Board finds that the based upon the testimony of Mr. Verderese, that the ingress and egress driveways will function safely and efficiently, that sufficient sight distance exists to permit the safe ingress and egress of traffic.

The Board accepts the traffic testimony of Mr. Verderese as professional testimony, and in reliance thereon, the Board finds the ingress and egress driveways will function satisfactorily.

23. The Applicant presented the testimony of Michael Ghabrial with regard to the operations of the proposed bank. In response to concerns raised by the Board and the members of the public, the Applicant has testified as follows with respect to site operations:

- a. All HVAC filters shall be cleaned on a regular basis in accordance with manufacturing specifications. Said roof HVAC equipment shall be located under the roof of the building;
- b. Garbage removal shall occur via cleaning people three times per week.

24. Neither the existing structure nor the property are historic sites or are located in an historic district. Neither is entered in the State Register of Historic Places. The Board has no

jurisdiction to declare the building and property to be historic. However, as part of the Federal approval process, the United States Department of Treasury, Office of Currency Control must evaluate the site from an historic perspective and make a determination as to whether and under what conditions the Applicant may proceed to construct a branch at this location. A condition of Board approval will be State and/or Federal approval, waiver or clearance.

25. In response to concerns raised by the Board and members of the public, the Applicant has agreed to certain additional site plan modifications during the hearings as more particularly set forth in paragraph 11 of this Resolution.

26. With these site plan modifications and operational conditions, as previously set forth in paragraph 23 of this Resolution the Board finds that the proposed site plan is acceptable, that site drainage will function adequately, that site circulation is satisfactory and efficient and that the grading, lighting and landscaping all meet recognized engineering standards and that the preliminary and final site plan proposed with the development of the Valley National Bank to be contained entirely within the B-1 Zone conforms with the Borough's Master Plan and Comprehensive Development Ordinance, including the Zoning Ordinance and the Planning Performance Standards.

27. The Board finds that the expert witnesses presented by the Applicant, Valley National Bank, were credible and presented detailed evidence and exhibits to support the proofs required for this application.

28. The imposition of the operational conditions as set forth above, as well as the conditions of approval set forth below will ameliorate, any impact the development of this property as a Valley National Bank may have on the adjoining property owners and that the concerns of the objectors have been considered and addressed.

NOW, THEREFORE, BE IT RESOLVED BY THE ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF MILLTOWN that the use variance, preliminary and final site plan approval with bulk variances as more fully described hereinabove, are hereby granted subject to the following conditions:

1. The Applicant shall revise the site plans, dated January 25, 2006 and revised September 21, 2006, to reflect all changes agreed to in Exhibit A-14, as well as those modifications agreed to on the record and testimony before the Board.

2. The Applicant shall construct and maintain new sidewalks along its frontage on North Main Street and the Applicant and its successors and any future owners shall maintain said sidewalks during the time it owns the property adjoining said sidewalks, including all snow and ice removal on the sidewalks.

3. The Applicant shall abide by all of the following operational limitations:

a. All HVAC filters shall be cleaned on a regular basis in accordance with manufacturing specifications and roof HVAC equipment shall be located inside the roof of the building;

b. Garbage removal shall occur via cleaning people three times per week.

4. Applicant's approval herein is subject to the following conditions:

a. The plans shall be amended to reflect the narrowing of the exit driveway to a width of 16 feet with striping to channel traffic acceptable to the Borough Engineer.

b. Applicant shall submit a proposed Deed of Easement for the proposed site triangle at the site egress driveway.

c. The Applicant shall enter into a Developer's Agreement with the Borough of Milltown and with respect to said agreement agrees to pay their fair share towards the construction of a traffic signal at the intersection of Ford Avenue and Main Street and the re-

timing of the existing traffic signal at Ochs Avenue and Main Street. Said fair share shall be 3.3% of \$500,000 or \$16,500.

d. The Applicant shall reconstruct all deteriorated curbs, sidewalk and driveway aprons along Cottage Avenue, Clay Street and West Church Street adjacent to the bank block. Said cost to the Applicant shall be \$15,000. Planning for the same shall be coordinated with the Borough Engineer for review prior to the implementation of the improvements.

e. The Applicant shall comply with the Borough Engineer's Report to the Board dated September 28, 2006 and the Borough Planner's Report dated October 2, 2006 subject to the changes and agreements made on the record.

f. The Applicant shall secure all necessary approvals and/or waivers for the project required in accordance with the National Historic Preservation Act, the regulations of the United States Department of the Treasury, Office of the Comptroller of Currency and any other State of New Jersey Historic approvals or waivers, which may be necessary for the Applicant to build its branch bank at this location.

g. The Applicant shall submit a maintenance manual for the maintenance of the detention basin to the Borough Engineer for review and approval and shall enter into a Developer's Agreement with the Borough of Milltown acknowledging the property owner's maintenance responsibilities for the basin.

h. A note shall be added to the site plan requiring that all roof drains be connected to the onsite storm drainage system.

i. Pavement striping and marking shall be provided to optimize vehicular circulation around the drive thru.

j. The parking stall dimensions shall be

9 feet by 18 feet.

k. All roof mechanical equipment shall be located under the gabled roof.

l. A note shall be added to the plan indicating that the existing 48" elm tree to the rear of the site shall be inspected by a New Jersey certified tree expert or forester. If the tree is determined to be viable it will remain on the site, and shall be protected during construction. Protection measures shall include the construction of a wall or walls to minimize grading, soil disturbance and compaction in the area of the tree. Developers shall provide a New Jersey certified forester or New Jersey certified tree expert during the construction of the improvements to recommend tree save measures, to examine, prune and protect the branch and/or root systems of all trees and shrubs to remain on the project. The name and certifications of this person shall be provided to the Borough Engineer prior to commencement of work on the project.

m. The developer shall submit a demolition plan to the construction code official for approval prior to the commencement of demolition on the site. The Plan shall include the location and removal of any existing underground storage tanks found to exist on the site. During demolition and construction the site shall be secured around the entire perimeter with construction fencing to be approved by the construction code official;

n. Asbestos, if encountered during the demolition operation shall be addressed in accordance with the applicable NJDEP regulations governing the same.

o. The architecture of the building shall be consistent with what has been presented by the Applicant's architect in the revised plans dated September 20, 2006.

p. Prior to the commencing of construction, the tree protection, removal and replacement plan shall be re-evaluated and recalculated and the final planting design must receive Board Planner approval in conjunction with timely Shade Tree Commission review. The

monetary amount of any penalty determined to be due shall be used to increase the size of trees to be planted on this site.

q. The freestanding sign shall be modular block with a plantings bed and shall be consistent with the architecture of the building.

r. The lighting in the canopy shall be recessed with lenses flush with ceiling or fascia.

s. The demolition plan shall outline precautions and timing of same.

t. Prior to the demolition of the existing structure, the Milltown Borough Historical Committee shall be allowed to remove (within reason) from the existing building whatever artifacts it finds to have historic value. The Applicant, if requested, shall keep a reasonably representative number of those artifacts on public display in its lobby display cases in the newly constructed building as testified to. Applicant shall not be required to warrant the condition of the artifacts so removed and shall only be required to use reasonable care in protecting the artifacts put on display.

u. If a bank use is discontinued on the site, all artifacts being displayed on this site shall be returned to the Milltown Historic Committee.

5. Applicant's approval is subject to securing permits and approvals from the following Boards and agencies:

- a. Middlesex County Planning Board
- b. Freehold Soil Conservation District
- c. New Jersey Department of Environmental Protection
- d. Milltown Borough Fire Official approval
- e. Any and all other agency approval having jurisdiction over this

Application

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6. Prior to initiation of construction, a building permit must be obtained from the Borough Construction Department. Applicant shall not secure any building permits until such time as the site plans have been approved by all appropriate consultants of the Board.