BOROUGH OF BERLIN
PLANNING BOARD

RESOLUTION MEMORIALIZATION DECISION
Resolution 26-18

(X) Minor Subdivision
( ) Major Subdivision Preliminary
( ) Major Subdivision Final
( ) Minor Site Plan
( ) Major Site Plan, Preliminary
( ) Major Site Plan
( ) Amended Preliminary
( ) Major Site Plan, Final
(X) Design Waiver
( ) Submission Waivers
( ) Use Variance
(X) Bulk Variances

(X) Approved
(X General Conditions
(X) Additional Conditions
( ) Denied

Application No. PB 26-04
Applicant: Timothy Tonczyczyn, LLC
55 Waterford Road
Hammonton, NJ 08037

Owner: Timothy Tonczyczyn, LLC
55 Waterford Road
Hammonton, NJ 08037

Block 1208, Lot 2
Action: August 10, 2026

Memorialized: _October 13, 2026
Plan Name: Tonczyczyn Minor Subdivision

WHEREAS, the applicant, Timothy Tonczyczyn, LLC, ("Applicant") has applied to the Berlin Borough Planning Board ("Planning Board") for the following primary approval: Minor Subdivision Approval with Bulk Variances and Design Waivers to subdivide a 0.476-acre parcel into two residential building lots, with the existing residence on proposed Lot 2 to be renovated and the proposed Lot 2.01 to be developed with a 2 story single-family residential dwelling in the R-2 High Density Residential Zoning District;

WHEREAS, the applicant has applied for the following variance relief:

(a) Bulk Variance from Section 335-87E for minimum lot depth (110 feet required; proposed lot depth of 102.55 feet).

(b) Bulk Variance from Section 335-87E for minimum front yard setback (35 feet required; 19.74 feet proposed).

(c) Bulk Variance from Section 335-79F for maximum lot coverage (40% required; 51.61% feet proposed).

WHEREAS, Applicant has applied for the following design waivers:

(a) Section 335-61 – Sidewalks required in all zones; No sidewalk proposed along Atlantic Avenue or Sumner Avenue.

WHEREAS, the application was considered by the Planning Board at its public meeting on August 10, 2026 in sworn testimony by: (1) Timothy Tonczyczyn, managing member of Timothy Tonczyczyn, LLC; and (2) Applicant's Engineer, Michael Avila, P.E., P.P. of Avila Engineering, LLC and by the legal representation of Michael Ward, Esq.

WHEREAS, a public hearing (X) was required and the Planning Board has considered that public comments:

( ) were not made by the public

( ) were made in favor of all or some aspect of the application

(X) were made against all or some aspect of the application; and

WHEREAS, the following documents are incorporated herein by reference:

(a) Borough of Berlin Planning and Zoning Board Application, dated June 10, 2026;

(b) A Plan entitled, "Tonczyczyn Minor Subdivision" revised July 31, 2026, prepared by Robert E. Lee, P.L.S.;

(c) A Survey entitled "Tonczyczyn Survey" revised July 31, 2026 prepared by Robert E. Lee, P.L.S.;

(d) Applicant's Engineer's August 4, 2026 Response Letter to Board Engineer's Report, consisting of two pages.

WHEREAS, it appears that all jurisdictional and procedural requirements of the applicable Borough Ordinances have been met;

WHEREAS, the Planning Board has considered the application and the evidence and arguments submitted by the applicant in support thereof;

WHEREAS, the Planning Board has considered the recommendations and comments of its professional staff and the following written reports:

(X) Revised Engineer report dated August 10, 2026;

Copies of which are attached hereto and made a part hereof respectively as Exhibit A; and

WHEREAS, the Planning Board has made the following Findings of Fact and Conclusions:

FINDINGS OF FACT AND CONCLUSIONS

1. Applicant requests Minor Subdivision Approval with Bulk Variances and Design Waiver to subdivide a 0.476-acre parcel into two residential building lots, with the existing residence on proposed Lot 2 to be renovated and the proposed Lot 2.01 to be developed with a 2 story single-family residential dwelling in the R-2 High Density Residential Zoning District. The subject property fronts North Atlantic Avenue and Sumner Avenue. The subject property consists of Block 1208, Lot 2 (hereinafter "P.I.Q.").

2. Applicant's Engineer testified that the plans shall be revised to provide for an easement, rather than proposed right of way dedications, to eliminate the need for two (2) of the requested variances concerning the minimum lot depth and minimum front yard setback.

3. Applicant's Engineer testified that the Applicant would further revise the subdivision plan to decrease the maximum lot coverage for proposed Lot 2.01, including removal of the existing deck and the removal of existing concrete pads. Applicant's Engineer testified that, with the proposed plan revisions, the maximum lot coverage will be less than the 51.61% currently proposed but still remain over the 40% maximum as set forth in the Borough Code and therefore shall still require a variance.

4. Applicant's Engineer testified that no sidewalk currently exists along Atlantic Avenue or Sumner Avenue and that installation of a sidewalk would require the removal of trees on the P.I.Q.

5. The Board Engineer reviewed his report and posed no objection to the submission of revised subdivision plans and the granting of the requested Bulk Variance and Design Waiver relief.

6. The Board finds and concludes that the requested bulk variance relief and design waiver for sidewalk along Atlantic Avenue or Sumner Avenue should be granted based upon the testimony adduced on the record by the Applicant's principal, and his engineer and the comments and testimony by the Board Engineer. The positive criteria is met based upon Applicant's Engineer's testimony described above. The negative criteria is met based upon the testimony of the Applicant's Engineer's described above.

7. Based upon all of the foregoing, the Planning Board finds that the application satisfies all requirements for the granting of minor subdivision approval with bulk variance and design waiver, subject to the conditions set forth in this resolution.

NOW, THEREFORE, BE IT RESOLVED by the Berlin Borough Planning Board that the said application for minor subdivision approval to subdivide a 0.476-acre parcel into two

residential building lots, with the existing residence on proposed Lot 2 to be renovated and the proposed Lot 2.01 to be developed with a 2 story single-family residential dwelling in the R-2 High Density Residential Zoning District, shall be and is hereby granted specifically subject, however, to the testimony, representations and stipulations of the applicant, its attorney and witnesses at the time of the hearing and it is further subject to the following conditions:

SPECIFIC CONDITIONS OF APPROVAL

1. Except as set forth herein, Applicant shall fully comply with and satisfy all items set forth in the Planning Board Engineer's report dated August 10, 2026 (Exhibit "A").

2. Applicant shall submit deeds and legal descriptions for perfecting the minor subdivision for the review and approval by the Board Engineer and Solicitor.

3. Applicant shall submit a revised Subdivision Plan for the review and approval by the Board Engineer.

4. Applicant shall take steps detailed above to lessen the proposed lot coverage of 51.61%.

GENERAL CONDITIONS OF APPROVAL

1. A brief notice of this decision shall be published in the official newspaper of the Borough, at the applicant's expense. The aforementioned notice shall be sent to the official newspaper for publication within ten (10) days of the date this decision is memorialized (Code Section 15-19). A proof of publication shall be filed with the Administrative Officer of the Planning Board within thirty (30) days of the date the decision is memorialized.

2. Applicant shall promptly pay any professional staff fees billed, in excess of the required application escrows.

3. These General Conditions of Approval shall be binding upon the applicant, the owner, and any successors and/or assigns of either.

4. The Specific Conditions of Approval, if any, shall be binding upon the applicant, the owner and any successors and/or assigns of either.

5. Applicant shall be required to obtain all outside agency approvals

6. Any improvement(s) to be constructed as a result of the Planning Board approving this application shall be constructed and operated in full compliance with the Code of Berlin Borough, the Revised Statutes of the State of New Jersey and any other applicable county and/or Federal law.

7. If the above application involves the granting of a final subdivision or final subdivision approval, the Chairperson and Secretary of Planning Board shall not sign the Final Subdivision Plan or Final Site Plan nor shall any zoning permit issue until Applicant has posted the required performance guarantee and Applicant has demonstrated that all conditions of the final subdivision approval have been satisfied.

8. If a final approval has been granted, Applicant shall submit to the Planning Board Engineer for his review a minimum of eight (8) complete sets of plans which shall incorporate all of the revisions that have been made conditions of this approval.

9. The Board presumes that the applicant's application, all exhibits, maps and other documents submitted and relied on by the applicant, are true and accurate representations of the facts relating to the applicant's request for relief. In the event that it appears to be the Board, on reasonable grounds, that such Application, exhibits, maps and other documents submitted are not accurate, are materially misleading or are the result of mistake, and the same had been relied upon by the Board as they bear on facts which were essential in the granting of the relief sought by the

applicant, the Board may rescind its approval and rehear the Application, either upon application of an interested party or on its own motion, when unusual circumstances so require, or where a rehearing is necessary and appropriate in the interests of justice.

10. At any time after the adoption of this resolution of memorialization, should a party of interest appeal to the Board for an order vacating or modifying any term or condition as set forth herein, upon proper showing of a materially misleading submission, material misstatement, materially inaccurate information, or a material mistake made by the applicant, the Board reserves the right to conduct a hearing with the applicant present, for the purpose of fact-finding regarding the same. Should the facts at said hearing confirm that there had been a material fault in the Application, the Board shall take whatever action it deems appropriate at that time, including but not limited to a rescission of its prior approval, a rehearing, a modification of its prior approval, or such other action as appropriate.

11. Applicant shall indemnify and hold the Borough harmless from any claims whatsoever which may be made as a result of any deficiency in the Application, or as to any representations made by the applicant, including but not limited to proper service and notice upon interested parties and publication of the notice of public hearing in this matter in accordance with the law.

12. The relief as granted herein is subject to the discovery of any and all deed restrictions upon the Subject Property which had not been known or had not been disclosed to the Board, but which would have had a materially negative impact upon the Board's decision in this matter had they been so known, or so disclosed.

13. Applicant must obtain approvals from any and all other governmental and/or public agencies as required, whether federal, state, county or local, over which the Board has no control

but which are necessary in order to finalize and/or implement the relief being granted herein, as well as any construction that may be a part of said relief. Applicant is solely responsible for determining which governmental and/or public agencies, if any, such approvals are required of. Applicant is further required to submit a copy to the Board's Secretary of all approvals and/or denials received from such outside agencies, with a copy thereof to the Board's Solicitor, Engineer and Planner.

14. Applicant must maintain an escrow account with the Borough and pay the costs of all professional review and other fees required to act on the Application, pursuant to the applicable sections of the Borough's land development ordinances, zone codes and any other applicable municipal codes, and the N.J. Municipal Land Use Law. Applicants' escrow account must be current prior to any permits being issued, or construction or other activity commencing on the approved project.

15. Applicant must obtain and all other construction or other municipal permits required with respect to the relief as granted herein.

BE IT FURTHER RESOLVED, that certified copies of this Resolution shall be forwarded to the applicant, Borough Clerk, Borough Construction Official, Borough Tax Assessor and Borough Zoning Administrative Officer.

RECORD OF VOTE FOR ACTION TAKEN						
BOARD	AYE	NAY	Abstain	Absent	Motion Made By	Second
Mayor Rick Miller	x					
Councilman Millard Wilkinson				x		
Chairman Michael McGowen	x					
Dan Pomponio	x					
Ken Ryker				x		
Wayne Hans	x					
Fran Ballak	x				x	
John Cole	x					
Jeanine Schumacher	x					
Harry Earl	x					x
Eric Hahn				x		

I, Donna Plute, Secretary to the Planning Board of the Borough of Berlin, County of Camden, State of New Jersey, do hereby certify that the foregoing is a true and correct copy of the action taken by said Board at a meeting held at the Municipal Building, 59 South White Horse Pike, Berlin, New Jersey on the 10th day of August 2026.

Donna Plute, Secretary

Michael McGowan, Chairman

RECORD OF VOTE ON RESOLUTION						
BOARD	AYE	NAY	Abstain	Absent	Motion Made By	Second
Mayor Rick Miller	x				x	
Councilman Millard Wilkinson				x		
Chairman Michael McGowen				x		
Dan Pomponio				x		
Ken Ryker				x		
Wayne Hans	x					
Fran Ballak	x					
John Cole	x					
Jeanine Schumacher	x					x
Harry Earl	x					
Eric Hahn				x		

I, Donna Plute, Secretary to the Planning Board of the Borough of Berlin, County of Camden, State of New Jersey, do hereby certify that the foregoing is a true and correct copy of the action taken by said Board on the Resolution at a meeting held at the Municipal Building, 59 South White Horse Pike, Berlin, New Jersey on the 13th day of October 2026.

Donna Plute, Secretary

Michael McGowan, Chairman

EXHIBIT A
PLANNING BOARD ENGINEER
ADAM WARBURTON, P.P., A.I.C.P.
ANTHONY LAROSA, P.E., C.M.E.