

## WESTAMPTON TOWNSHIP LAND DEVELOPMENT BOARD

MAY 3, 2017 REGULAR MEETING 7:00 P.M.

### AGENDA

1. Call meeting to order.
2. Requirements of the Sunshine Law. This meeting was advertised in the Burlington County Times on January 5, 2017 and posted in the Municipal Building. Pledge of Allegiance
3. Welcome to guests
4. Roll Call: Mr. Applegate, Mr. Barger, Mr. Blair, Mr. Borger, Mr. Daniels, Mr. Freeman, Mr. Guerrero, Mr. Lopez, Mr. Mumbower, Ms. Berkley, Mr. Gehin-Scott, Solicitor Lou Capelli, Engineer Jim Winckowski, Planner Tamika Graham, Secretary Marion Karp
5. Approval of minutes – 4/5/2017
6. Swear in Board Professionals
7. Resolutions: approval needed:
  - 5-2017 Dolan Contractors, LLC, Block 203, Lot 7 (90 Stemmers Lane) – major site plan and bulk variance (36,150 sq. foot building expansion) – continuation of application until May 3, 2017 meeting
8. Old Business:
  - a. Dolan Contractors, LLC, Block 203, Lot 7 (90 Stemmers Lane) – major site plan and bulk variance (36,150 sq. foot building expansion) – continued from April 5, 2017 LDB meeting
9. New Business:
  - a. A. Duie Pyle, Inc., Block 202, Lot 2 (45 East Park Drive) – preliminary and final site plan approval (installation of security fencing, parking lot modifications)
  - b. Dolan Contractors, Inc., Block 203, Lot 1.03, 2 & 3 (32 Springside Road) – amended final site plan (improvements to include guard booths, driveway with acceleration lane onto Ikea Drive, fencing, patio, site lighting, landscaping, trash compactor, truck staging area and entrance barrier gate.

10. Informal Applications:

- a. Virtua Health, Inc., Block 1201, Lot 20 (798 Woodlane Road) – site plan waiver (mobile Farmer's Market)

11. Correspondence:

- a. American Association of Buddhist Education, 109 Second Street – 2017 Summer Retreat

12. Open meeting for public comment

13. Comments from Board members, Solicitor, Engineer and Secretary

14. Adjourn

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WESTAMPTON TOWNSHIP LAND DEVELOPMENT BOARD

REGULAR MEETING

APRIL 5, 2017 7:00 P.M.

MINUTES

The regularly scheduled meeting of the Westampton Township Land Development Board was held at the Municipal Building on Rancocas Road on April 5, 2017 at 7:04 P.M. The meeting was called to order by Chairman David Barger and the opening statement required by Sunshine Law was read. This meeting was advertised in the Burlington County Times on January 5, 2017 and posted in the Municipal Building. All guests were welcomed.

Everyone stood for the Pledge of Allegiance.

**Roll Call:** Present: Mr. Applegate, Mr. Barger, Mr. Blair, Mr. Daniels, Mr. Freeman, Mr. Guerrero, Mr. Lopez, Mr. Mumbower, Mr. Gehin-Scott, Solicitor Stephen Boraske, Planners Sam Agresta and Tamika Graham, Engineer Jim Winckowski, Secretary Marion Karp  
Absent: Mr. Borger, Ms. Berkley

The minutes of the March 1, 2017 meeting were approved.

Solicitor Boraske swore in the Board professionals.

**Resolutions:**

4-2017 Recommendation of Ordinance #1-2017, Amend Westampton Township Code, Chapter 250, Zoning, Sections 250-4 & 250-26 (definitions of convenience store, motor vehicle service station and principal use) – was memorialized.

**Old Business:**

None

**New Business:**

**Dolan Contractors, LLC, Block 203, Lot 7 (90 Stemmers Lane).** The applicant's attorney Russ Whitman was present on behalf of an application to construct a 36,150 square foot building addition to an existing building at 90 Stemmers Lane. Additional parking is proposed. A "C" variance is requested for a 33 foot side yard where 50 feet is required. Mike Dolan, principal, Bernie Wojtkowiak, PE and William Stevens, PE, PP were sworn in by the Board solicitor.

The proposed addition will serve as a freezer and will be attached to the building. The

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intention of the project is to make the entire facility a fully refrigerated building. The occupancy history has been spotty on this building according to Mike Dolan; it is currently being occupied for overflow by Camuto Group. Before that it was vacant for a number of years. It's been a long time since there has been a steady long term occupant of the building. This building was constructed in 1995; the original tenant lasted two years and then Ikea used it for overflow for 4 years. It is a basic building with minimal improvements, basically a concrete shell box. Buildings of this size that exist are being repurposed for other uses. The number of additional parking spaces will accommodate the tenant's needs; the tenant interested in the building is Sunbasket.

Office space within the building will be expanded from a current 3,990 office to a proposed size of 6,265 square feet. Sunbasket ships food to homes, along the lines of Blue Apron. They are currently located and headquartered in San Francisco; they are operating in Highland Business Park in an existing refrigerated space of about 40,000 square feet. The meal boxes are assembled here. It is not an operation that requires a large amount of loading dock activity. Staff will likely be increased, but Mike Dolan isn't sure exactly by how many, he thinks somewhere in the line of 250 employees total and they currently employ about 150 now. They are looking to lease the building.

The Planner's letter of 3/29/17 was reviewed with the Board. Ms. Graham noted that several items required to be submitted had not been submitted with the application; the applicants agree to supply all of the missing information. The applicant is proposing 241 new parking spaces. Bumper blocks will be removed from the proposed parking area. The applicants would like to seek an additional variance to allow for their proposed parking layout.

Sidewalk is proposed along the front of the building; they agree to provide a revised sidewalk layout. The applicants request a waiver from having to provide a 50 foot buffer in the front; they want to leave it the way it currently is. They are also seeking waivers from items # 2 and #3 in the report. They agree to comply with the rest of the comments regarding landscaping and plantings.

Lighting will be upgraded to LED lighting across the entire frontage. Lighting in the rear will be matched to what currently exists there now. The lighting plan needs some revision since they can't install lighting poles in the PSE&G easement. They may use some floodlights in addition to standard shoebox fixtures in order to bring the light level up to what it needs to be. The lighting plan will meet the Township ordinance. Jim Winckowski asked if PSE&G would provide a letter indicating their approval with the plan; Mike Dolan explained that they have experience dealing with them. This building already has parking located within the easement area. The poles will be located just outside the easement area and point towards the building.

Trash is handled by an existing compactor at the rear of the building; there is no existing enclosure.

No additional signage is proposed at this time; they will use the existing and just change



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the facades.

The Board engineer's letter was then reviewed. Jim Winckowski asked about the additional employees and their traffic impact; the applicant doesn't believe there will be much of an impact.

The storm water management design was recently completed and was submitted to the Board engineer. The existing system will remain; there is an existing swale which leads to a basin. Jim Winckowski was concerned with ground water recharge. Their engineer suggested changing the outlet structures to retain more water so that it will recharge into the ground; they have ample storm water management storage. Jim stated that there are a lot of open ended issues and the applicant is asking for both preliminary and final approval this evening. He hasn't had time to review the storm water design; they haven't had time to address traffic; they have no testimony from the proposed tenant, etc. He thinks the engineering details can be worked out, we always do, but he is concerned about relying on a storm water management facility on an adjacent site.

Bill Stevens said that all three buildings in the area function well together as far as storm water management; Jim commented that it may be so but he hasn't had time to verify this.

Board Chair Dave Barger asked if a preliminary approval would satisfy their tenant; Russ Whitman stated that they have often received conditional approvals. He does understand Jim's concerns; it is a complicated thing and something that has to be reviewed. He suggested that it be handled as a resolution compliance issue which will be worked out at a later time.

Jim Winckowski asked if the 294 spaces were something set in stone or if they could be adjusted. Mike Dolan stated that the proposed tenant was seeking 300 spaces. Jim is ok with the 9 foot wide employee parking spaces.

There are some areas where outside condensers will be located; Jim Winckowski stated that two of them are located in a parking space and also in a drive aisle. Bernie Wojtkowiak stated that they are looking at different equipment that would reduce the size. They have a lot of flexibility with the mechanical design. Jim asked if all three had to be in front of the building; Bernie said they could explore other options. Loading docks at the front of the building will be removed.

Dave Barger asked if the color of the wall panels could be changed from white and painted to match the existing building which is a tan color; the applicants are agreeable to that. He asked if they would consider supplementing the buffer along Route 295 east of the future freezer area as well; they agree to this as well. It will improve aesthetics.

The existing driveway will remain untouched. The Fire Official submitted a report dated 3/29/17; the applicants agree to comply with the items in his report. Gene Blair stated there is a Knox box ordinance that they need to comply with; the applicants agree to do

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this. There is a two foot gap between the side of the building and the driveway; this will be concrete.

Board member Bill Freeman stated that he has concerns that the increase in traffic hasn't been addressed by the applicant. He thinks an addition of this magnitude should address traffic concerns.

Russ Whitman stated that this isn't a very large addition; Mike Dolan commented that this is an existing building and it is a small amount of space and a small number in comparison to the overall business park. Internally there is really little traffic and there are no issues currently. Tenants fluctuate over time; the last time an addition was constructed was two years ago. It was a 60,000 square foot addition and they didn't do a traffic study at that time.

Abe Lopez has concerns because we don't know the shift schedules of the business; the storm water management issues are concerning as well as a lack of a circulation plan. Russ Whitman stated that they are happy to have any approval conditioned upon approval of our Board professionals.

Jim Winckowski said the impact of traffic isn't so much dependent on the size of the building as on the use of the building. He cannot review traffic impact as part of resolution compliance the same way that he can do with the storm water management.

Abe Lopez is concerned with the use of the building; he wants more detail on the use such as the hours of operation; how many employees; are the shifts going to be staggered, etc. He doesn't know what the intentions are of the incoming business.

Russ Whitman stated that they can't provide this information because they don't yet have a contract, they don't have a tenant, and they are doing this on a speculative basis. He hopes the Board members have been through the industrial park; there is virtually no traffic in the park. His experience can't be unique. He believes a traffic study isn't a checklist item and it isn't required; it is an unfair burden to place on Mr. Dolan. He is a businessman but he has a long term interest in Westampton Township. He understands the Board's concerns but it isn't a reality; there are no traffic issues in the business park. This is not a large addition.

Dave Barger stated that if 294 employees leave all at one time, the intersections will be a mess. They will hear it from the residents. This is why they need information from the proposed tenant regarding shifts, etc.

Bill Freeman stated that they are adding to a conglomerate of traffic, there are other businesses in the township. The Board is just trying to address their concerns, they live here, and they are residents.

Dave Barger asked if a preliminary site plan approval would convince their tenants that they are on the right track; Russ Whitman stated that he believes it would. Abe Lopez



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said we want to roll out a red carpet for business in this town; we just have a concern. We don't want to hurt a potential deal.

Mike Dolan stated that they have done three or four traffic studies and they are of the whole park and required by Burlington County. The Board has never asked for a study for one building.

Jim Winckowski said this is the first time that parking has increased so greatly with no explanation; nothing has come in to the Board in this business park in years. The onsite roadways aren't an issue, but the intersections are. They still don't have details on the operation so it is hard to make a decision as to whether traffic will be an issue.

Mr. Stevens spoke regarding the "C" variance for insufficient side yard; there are a few reasons for this, most predominantly the tenant requires the space for freezers. They are constrained by the site; it is their opinion that it is a di minimums variance.

Dave Barger asked if the County Planning Board might require a traffic study. Jim Winckowski suggested that perhaps the Board could determine a threshold amount of trips that the applicant would generate during peak hour. Usually it's around 100 trips. If they exceeded that they would have to return to the Board. Perhaps the Board could grant an approval based on a condition that a certain number of trips not be exceeded.

A peak hour trip generation report needs to be submitted to the Board; if it doesn't exceed 100 trips per hour the applicant would not have to return for amended final approval. If it does, then they would have to. Resolution compliance is always conducted between the professionals according to Russ Whitman and doesn't involve the Board at that point. Solicitor Boraske advises that this is a discretionary thing for the Board to decide; the Board has two options. They can give just preliminary approval tonight; the second open is to grant both approvals tonight and have the Board professionals work out the outstanding issues.

The meeting was opened to the public for comment. No comment was made and the meeting was closed.

Russ Whitman stated that they wanted both preliminary and final approvals this evening; the outstanding issues are the kinds of things that aren't unusual to work out during resolution compliance. The advantage to them is they can market the property as having a conditional final approval, it means a lot. They don't want to deal with the uncertainty of a Land Development Board meeting. Russ said they are in competition with other areas and they don't have a signed contract yet. Spec buildings never have the advantage of being able to talk to the tenant ahead of time; it certainly isn't an unusual issue. Getting the building up to spec is a very expensive venture. This is a tenant that has been in the Township a number of years and hasn't raised a profile at all.

Russ Whitman asked the Board if the matter could be continued until the next meeting.

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Mr. Guerrero made a motion to continue the application; the motion was seconded by Mr. Freeman. All Board members voted yes.

The meeting was again opened to the public. No comment was made and the meeting was closed.

**Comments from the Board**

Mayor Daniels thinks the Board did their due diligence; he understands smart growth but there were many conditions attached, ultimately this may just walk away. As a Mayor he is always looking at ways of minimizing impact to resident's pocketbooks. We can't have it both ways. Mike Dolan has helped this township grow.

Abe Lopez commended everyone on the Board for trying to balance economic growth and the concerns of the residents. He saw the Board trying to make this work; he thinks we were really close to coming to a resolution.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Marion Karp, Secretary  
Westampton Township Land Development Board



**RESOLUTION: 5-2017**

**WESTAMPTON TOWNSHIP LAND DEVELOPMENT BOARD**

**APPLICANT'S NAME:** Dolan Contractors, LLC

**BOARD'S DECISION:** Continued Application to Future Hearing

**PROPERTY ADDRESS:** 90 Stemmers Lane – Block 203, Lot 7

**ZONING DISTRICT:** Industrial – “I”

**DATE OF HEARING:** April 5, 2017

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**WHEREAS**, Mike Dolan, principal, d/b/a Dolan Contractors, LLC (“the Applicant”) filed on March 17, 2017, an application with the Westampton Land Development Board (“the Board”) requesting Preliminary and Final Site Plan Approval with variance relief from the Township Zoning Ordinance to permit the construction of a 36,150 square foot building addition to an existing building located at 90 Stemmers Lane, Westampton, New Jersey, and designated as Block 203, Lot 7 on the Township Tax Map (“Subject Property”); and

**WHEREAS**, the Board had jurisdiction to hear this matter under the New Jersey Municipal Land Use Law; and

**WHEREAS**, the Application came before the Board at the regularly-scheduled public meeting held on April 5, 2017. The Application was presented by the Applicant’s attorney, Russell Whitman, Esq. The Board heard testimony from the Applicant and the Applicant’s professionals, Bernie Wojtkowiak, PE, and William Stevens, PE, PP, as to the nature, purpose, location, and description of the requested site plan approval and variance relief; and

**WHEREAS**, the Board and Board Professionals discussed the Application with the Applicant, and the Board and Board Professionals questioned the Applicant regarding several issues with the Site Plan, principally concerning lighting, traffic, and storm water management at the Subject Property. The Board Professionals offered recommendations on how to address these issues moving forward.

**WHEREAS**, the Application was opened to the public for comment, and any members of the public wishing to comment on the Application were given the opportunity to do so.

**WHEREAS**, prior to the Board rendering a final decision concerning the Application, the Applicant requested the hearing be continued to a later date.

**NOW, THEREFORE BE IT RESOLVED**, by the Land Development Board of the Township of Westampton that the Applicant's Application requesting Preliminary and Final Site Plan Approval with variance relief from the Township Zoning Ordinance to permit the construction of a 36,150 square foot building addition to an existing building at 90 Stemmers Lane upon motion duly made by Mr. Guerrero and seconded by Mr. Freeman, was and is hereby **CONTINUED** to the next regularly scheduled Board Meeting, subject to the testimony and representation set forth on the record by the Applicant, and any conditions set forth herein.

**IT IS FURTHER RESOLVED**, the above relief is subject to the following standard conditions:

1. That the Application, all exhibits, testimony, map, 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 approval. In the event that it is determined by the Board, on non-arbitrary, non-capricious and reasonable grounds, that the Application, exhibits, testimony, 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 review its approval and rehear the Application, if circumstances so require, or where a rehearing is necessary and appropriate in the interests of justice;
2. At any time within 45 days after the adoption of this resolution should a party of interest appeal to the Board for an order vacating or modifying any term or condition as set forth herein, upon presentation of clear and convincing evidence 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, consistent with the MLUL and case law, including but not limited to a reconsideration of its prior approval, a rehearing, a modification of its prior approval, or such other action as appropriate;
3. The Applicant shall indemnify and hold the Township 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 made in reliance upon the certified list of property owners and other parties entitled to notice, said list having been provided to the Applicant by the Township pursuant to N.J.S.A. § 40:55D-12(c), and publication of the notice of public hearing in this matter in accordance with the law;
4. 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;

5. The 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. The Applicant is solely responsible for determining which governmental and/or public agencies, if any, such approvals are required;
6. The 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;
7. The Applicant must pay the costs of all professional review and other fees required to act on the Application, pursuant to the applicable sections of the Township's land development ordinances, zone codes and any other applicable municipal codes, and the N.J. Municipal Land Use Law;
8. The Applicant assumes all risks should the Applicant fail to obtain any other construction or other municipal permits required with respect to the relief as granted herein during the statutory appeal period associated with the language of this resolution;
9. The Applicant must obtain any other construction or other municipal permits required with respect to the relief as granted herein;
10. The Applicant shall comply with all of the representations and stipulations as contained in the application and as represented through testimony in support of the application.



ROLL CALL VOTE

	<u>Ayes</u>	<u>Nays</u>	<u>Abstentions</u>	<u>Recusal</u>
Applegate	x			
Barger	x			
Blair	x			
Daniels	x			
Freeman	x			
Guerrero	x			
Lopez	x			
Mumbower	x			
Gehin-Scott	x			

WESTAMPTON LAND DEVELOPMENT BOARD

BY:

\_\_\_\_\_  
Dave Barger, Chairman

ATTEST:

\_\_\_\_\_  
Marion Karp, RMC, CMR, Board Secretary

DATE MEMORIALIZED: \_\_\_\_\_



April 10 , 2017

Mayor C. Andre Daniels  
Members of The Westampton Land Development Board  
Westampton Township Municipal Building  
710 Rancocas Road  
Westampton, NJ 08060

Dear Mayor Daniels and Board Members:

Allow me to introduce myself. I am the COO of Sunbasket Inc. We operate food distribution facilities in various locations, including one located in the Highland Business Park in Westampton Township. We have a critical need for larger facilities to accommodate our rapidly expanding customer demand. Although we have a broad search underway, we are very interested in the possibility of staying in Westampton. We are in discussions with Mike Dolan regarding 90 Stemmers Lane. We understand that you have some questions about our operation which I will attempt to address below.

#### **Projections for 90 Stemmers Lane**

**Shifts:** Our current shifts typically operate from 5:30 AM to 2:30 PM, and 3:00 PM to 11:00 PM. This works well at all of our locations. It allows our employees to travel during off peak hours, and to accommodate employees with kids coming home after school, or other similar family needs.

**Numbers of Employees:** We anticipate growing from 250 employees to possibly 350 employees or more in future years, spread across multiple shifts. Currently, very little of our operation is automated. As we automate, we expect to see continued job growth, particularly in jobs requiring higher skill.

**Traffic:** We anticipate approximately 10-20 tractor trailer trips per day, most are typically during off-peak hours. Many of our employees carpool or ride share. On average, we find approximately 1 car for every 2 employees with most commuting in off-peak hours.

I am readily available to talk with you at any time, and I plan to be in Westampton the first week of May when I hope to meet you all. Should you be interested in touring our facility before then, feel free to call me to arrange a tour.

You can learn more about our company through our website; [Sunbasket.com](http://Sunbasket.com).

Sincerely,

Don Barnett, COO  
831-594-3598  
[don@sunbasket.com](mailto:don@sunbasket.com)



# Township Of Westampton



SITE PLAN REVIEW APPLICATION  X   
 SUBDIVISION APPLICATION \_\_\_\_\_  
 MINOR  X  MAJOR \_\_\_\_\_  
 PRELIMINARY \_\_\_\_\_ FINAL \_\_\_\_\_ CONSOLIDATED  X

DATE FILED

(for office use only)

**BLOCK**  202  **LOT**  2

## 1. GENERAL INFORMATION

A. Applicant Name  A. Duie Pyle, Inc.   
 Address  650 Westtown Road, West Chester, PA 19381   
 Telephone Number  800-523-5020

B. The Applicant is a:  
 Corporation\*  X   
 Partnership\* \_\_\_\_\_  
 Individual \_\_\_\_\_  
 Other (specify) \_\_\_\_\_

\*If the applicant is a corporation or a partnership, please attach a list of the names and addresses of persons having a 10% interest or more in the corporation or partnership.

C. The relationship of the applicant to the property in question is:  
 Purchaser under contract \_\_\_\_\_  
 Owner \_\_\_\_\_  
 Lessee \_\_\_\_\_  
 Other (specify)  Related entity

Attorney  Michael F. Floyd, Esq., Archer & Greiner, P.C.   
 Address  One Centennial Square, Haddonfield, New Jersey   
 Telephone Number  856-616-6140



D. Engineer/Surveyor: Thomas P. Bechard, P.E., Mohawk Land Development Consultants  
Address 64 E. Uwlchlan Ave., #249, Exton, Pennsylvania, 19341  
Telephone Number 610-942-4233

**2. INFORMATION REGARDING THE PROPERTY**

A. Street address of the property 45 East Park Drive, Westampton Township, New Jersey, 08060  
B. The location of the property is approximately \_\_\_\_\_ feet from the intersection  
of \_\_\_\_\_ at the end of the East Park Drive cul-de-sac  
C. Existing use of the property Distribution center, warehouse, trucking logistics  
Proposed use of property N/A - no new proposed use  
D. Zone in which property is located Industrial (I) Zone  
E. Acreage of property 31.96  
F. Is the property located on a County Road? Yes \_\_\_\_\_ No X ; State road?  
Yes \_\_\_\_\_ No X ; or within 200 feet of a municipal boundary? Yes \_\_\_\_\_ No X

**STATE APPLICATIONS ONLY (ANSWER ITEMS G, H & I):**

G. The type of proposal is: New Structure \_\_\_\_\_ Expanded area \_\_\_\_\_ Improved  
Parking Area X Alteration to Structure \_\_\_\_\_ Expansion to Structure \_\_\_\_\_  
Change of Use \_\_\_\_\_ Sign \_\_\_\_\_  
H. Name of business or activity (any) A. Duie Pyle  
I. Are there deed restrictions that apply or are contemplated? No.  
(if yes, please attach a copy to application)

**SUBDIVISION APPLICATIONS ONLY (ANSWER ITEMS J, K, L & M)**

J. Number of lots proposed \_\_\_\_\_  
K. Was the property subject to a prior subdivision? Yes \_\_\_\_\_ No \_\_\_\_\_  
(If so, list dates of prior subdivisions and attach resolutions)  
L. Number of lots created on tract prior to this application \_\_\_\_\_

M. Are there any existing or proposed deed restrictions, easements, rights-of-way or other dedication? Yes \_\_\_\_\_ No \_\_\_\_\_ (if yes, attach a copy)

N. List all proposed on-site utility and off-tract improvements:

N/A

O. List maps and other exhibits accompanying this application:

Please see attached cover letter.

**3. INFORMATION REGARDING THE APPLICATION**

A. Describe any proposed "C" or bulk variances requested, their location (Block & Lot) and the sections of the Zoning Ordinance from which relief is requested. Attach 1 copy of variance notification documents.

N/A

**4. CHECK LIST AND WAIVER REQUESTS**

A. Please refer to the Ordinance for the specific submission requirements, which are listed in Chapters 196, 215 and 250 (Site Plan Review, Subdivision of Land and Zoning) from the Code of the Township of Westampton.\*

B. Please list which sections of the Ordinance applicant requests a waiver from and the reasons therefore.

N/A

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**5. AUTHORIZATION AND VERIFICATION**

I certify the statements and information contained in this application are true.

ARCHER & GREINER, P.C.

By: Michael F. Floyd  
Michael F. Floyd, Esquire  
Attorneys for Applicant

4/5/17  
Date

\*Copies of the Township Ordinance are available for purchase at the Westampton Township Municipal Building. The entire ordinance is also available on the Internet at the Township website: <http://www.westampton.com>

115884581v1



**PRINCIPALS**

Edward Vernick, PE, CME, President  
 Craig F. Remington, PLS, PP, Vice President  
 Michael D. Vena, PE, PR, CME (deceased 2006)  
 Edward J. Walberg, PE, PR, CME, CFM  
 Thomas F. Beach, PE, CME  
 Richard G. Arango, PE, CME  
 Kim Wendell Bibbs, PE, CME  
 Marc DeBlasio, PE, PR, CME, CPWM, CEP  
 Alan Dillenhofer, PE, PR, CME  
 Leonard A. Falola, PE, PR, CME  
 Christopher J. Fazio, PE, CME  
 Terence Vogt, PE, PR, CME  
 Dennis K. Yoder, PE, PR, CME

**SENIOR ASSOCIATES**

Charles E. Adamson, PLS, AET  
 John J. Cantwell, PE, PR, CME  
 Richard B. Czekanski, PE, CME, SCEE  
 Annika Hogan, PE, RA, CME, CPWM, LEED-AP  
 Kenneth C. Ressler, PE, CME  
 Frank J. Seney, Jr., PE, PR, CME, NERS  
 Gregory J. Sullivan, PE, PR, CME, CEA

PLEASE REPLY TO THE NOTED OFFICE

**Remington & Vernick Engineers**  
 232 Kings Highway East  
 Haddonfield, NJ 08033  
 ☐ (856) 795-9595

51 Haddonfield Road, Suite 260  
 Cherry Hill, NJ 08002  
 ☐ (856) 795-9595

**Remington, Vernick  
& Vena Engineers**  
 9 Allen Street  
 Toms River, NJ 08753  
 ☐ (732) 286-9220

3 Jocassee Boulevard, Suite 300-400  
 Old Bridge, NJ 08857  
 ☐ (732) 955-8000

**Remington, Vernick  
& Walberg Engineers**  
 845 North Main Street  
 Pleasantville, NJ 08232  
 ☐ (609) 645-7110

4907 New Jersey Avenue  
 Wildwood City, NJ 08260  
 ☐ (609) 522-5150

Melford Plaza I, Suite 400  
 16701 Melford Boulevard  
 Bowie, MD 20715  
 ☐ (240) 544-5382

**Remington, Vernick  
& Beach Engineers**  
 922 Fayette Street  
 Conshohocken, PA 19428  
 ☐ (610) 940-1050

1000 Church Hill Road, Suite 220  
 Pittsburgh, PA 15205  
 ☐ (412) 263-2200

Univ. Office Plaza, Bellevue Building  
 262 Chapin Road, Suite 105  
 Newark, DE 19702  
 ☐ (302) 266-0212

**Remington, Vernick  
& Arango Engineers**  
 The Presidential Center, Lincoln Building  
 Suite 600, 101 Route 130,  
 Cinnaminson, NJ 08077  
 ☐ (856) 303-1245

One Harmon Plaza, Suite 210  
 Secaucus, NJ 07094  
 ☐ (201) 624-2137

T:\Municipal\Westampton\p011 - A. Duie Pyle, Inc\review 1.doc

April 27, 2017

Township of Westampton  
 Land Development Board  
 Dave Barger, Chairman  
 710 Rancocas Road  
 Westampton, NJ 08060

Attention: Marion Karp, Secretary

**Re: Preliminary and Final Major Site Plan  
 Planning Review  
 A. Duie Pyle, Inc., LLC  
 45 East Park Drive  
 Block 202, Lot 2  
 Our file # 03-37-P011**

Dear Board Members:

We have reviewed a major site plan submission, received April 7, 2017, consisting of the following:

Sheet	Title	Date	Revised Date
1 of 9	Cover Sheet	01-31-17	03-01-17
2 of 9	Existing Conditions Plan	01-31-17	03-01-17
3 of 9	Demolition Plan	01-31-17	03-01-17
4 of 9	Overall Site Plan with Zoning Analysis	01-31-17	03-01-17
5 of 9	Detailed Site Plan 1 of 3	01-31-17	03-01-17
6 of 9	Detailed Site Plan 2 of 3	01-31-17	03-01-17
7 of 9	Detailed Site Plan 3 of 3	01-31-17	03-01-17
8 of 9	Site Details	01-31-17	03-01-17
9 of 9	Signage and Fencing Details	01-31-17	03-01-17

The plan set was prepared, signed, and sealed by Thomas P. Bechard, Jr., P.E., Mohawk Land Development Consultants, 64 E. Uwchlan Avenue, Exton, Pennsylvania 19341, (610) 942-4233.

I. GENERAL INFORMATION

**Applicant/Owner:** NJW, LLC c/o  
A. Duie Pyle, Inc.  
650 Westtown Road  
West Chester, PA 19381  
(800) 523-5020

**Proposal:** The applicant seeks approval to construct a security fence, restripe the parking lot, remove a row of parking, and implement other site plan improvements in relation to existing warehouse/distribution operations.

**Zoning:** I - Industrial Zone

II. SUBMISSION INFORMATION

The requirements for preliminary and final site plan details are included under Section 196-9 of the Development Regulations. The following applicable items that are underlined have not been provided. Where waivers are requested appropriate justification should be provided. The Board may either declare the plan incomplete or waive the outstanding items:

All preliminary site plans shall contain the following information:

1. Floodplain areas based on one-hundred-year storms.
2. A key map at a scale of one inch equals 2,000 feet showing the location of the site within the community.
3. The zoning of the site and the lots adjacent to it and the tax plate, block and lot numbers and the owner of record.
4. A topographic survey of the site with contours at two-foot intervals or closer if the topography of the ground is flat and if the Board directs, and a title survey certified by a licensed land surveyor if the same is required by the Board. As an alternate, the Board may require spot elevations.
5. All setbacks, lot and right-of-way lines and the dimensions, locations and purpose of all easements.

All final site plans shall contain the following information:

1. Setback dimensions shall be shown on the plan.
2. A complete landscape plan, including size and type of all plants.
3. Construction details, including dimensions and materials of pavement, curbs and walks and details of all special features, including but not limited to inlets, manholes, headwalls, lights, hydrants, valves, traffic control devices, fencing, play equipment, etc.
4. Copies of all plans approved or submitted for approval by other regulatory agencies.

**III. ZONING REQUIREMENTS**

A. Use: The applicant's proposed use is in conformance with the permitted use of the Industrial zone.

B. Area and Bulk Requirements:

Code Reference	Item	Required	Proposed	Status
250-20D	Minimum Lot Area	5 acres	31.96 acres	C
250-20D	Lot Depth	350 ft.	> 350 ft.	C
250-20D	Lot Width	300 ft.	195.71 ft.	C
250-20D	Max. Lot Coverage	80%	TBD	TBD
250-20D	Building Height	45 ft.	< 45 ft.	C
	Principal Bldg. Setback			
250-20D	Front Yard	100 ft.	459.09 ft.	C
250-20D	Rear Yard	50 ft.	1,478.27 ft.	C
250-20D	Side Yard	50 ft.	17.29 ft.	P
250-20E	Off-Street Parking	203 spaces (See Note)	203 spaces (plus 6 for motorcycles)	C

C - Conformance.

P - Pre-existing, non-conformity.

TBD - To be determined by applicant.



- C. **Note:** Parking requirements: One parking space per 250 square feet of gross floor area for offices and one parking space for 5,000 square feet of gross floor area for distribution centers and warehouses.

#### IV. PERFORMANCE STANDARDS

##### A. Parking, Loading and Circulation

1. Per Section 250-20E, one parking space per 250 square feet of gross floor area for offices and one space for 5,000 square feet of gross floor area for distribution centers and warehouses is required. A total of 93 spaces are required for the shop portion, 84 spaces for the office, and 26 spaces for the warehouse. A combined total of 203 spaces is required, whereas the applicant complies. The applicant is reducing its existing parking from 266 spaces, eliminating a total of 63 spaces. Testimony should be provided that indicates the proposed changes will meet the site's future needs.
2. The plan illustrates the removal of parking spaces abutting the main concrete building and replaced with a striped area. The dimensions and purpose of this area should be provided.
3. Per Section 250-22.Q.6, the size of required nonresidential parking spaces shall be 10 feet by 20 feet. The applicant proposes parking spaces that are 9 feet by 18 feet. Plans should be revised or a variance required.

Additionally, up to two-thirds of all parking for office use may be considered employee parking, and can be reduced to a dimension of 9 feet by 18 feet. Employee parking shall be physically separated from nonemployee parking. Testimony should be provided regarding the number of parking spaces that may be designated for employees only.

4. Access aisles should be dimensioned for the northern parking lot. Also, several rows of parking are not dimensioned (i.e. row of 24 spaces to the south of the parking lot; 3 spaces and 19 spaces to the north of the parking lot). Applicant should clarify that these spaces are also proposed at 18 feet by 9 feet or otherwise.

**B. Pedestrian Circulation**

1. The plan proposes a six foot wide pedestrian crosswalk from the southwest corner of the main parking lot connecting to the smaller existing concrete building. It appears to terminate haphazardly. Applicant should clarify the intended path of travel in relation to the building entrance.
2. The width of all existing sidewalks should be shown, including the sidewalk abutting the proposed striped area on the north side of the main concrete building and fronting the smaller concrete building.

**C. Planting Design**

1. It appears that no landscaping improvements are included in the proposed site plan. Per Section 196-8.B(1), in the Industrial Zone, a 50-ft. landscape buffer is required in the front yard and a 25-ft. buffer is required along all property lines. The existing vegetative buffer between the NJ Turnpike and I-295 should be shown and compliance with ordinance requirements.
2. The planting requirements of Section 196-8.B(3) are based on modules measuring 50 feet by 25 feet. Applicant should address plantings in the front yard or request a waiver.
3. The applicant proposes to eliminate parking islands, which necessitates a need for a waiver. Per Section 196-8.C, a landscape island shall be provided for every 20 parking spaces and each island shall have one tree or shrubs where utilities prohibit trees. The applicant should address landscape requirements and provide justification if relief is to be sought.

**D. Lighting**

1. It appears that no lighting improvements are included in the proposed site plan. Applicant should provide testimony to confirm and address adequacy of existing lighting.
2. All existing light fixtures should be illustrated on the plans, particularly in the parking areas.

E. **Trash Enclosure (Solid Waste Management)**

It appears that no trash enclosure is shown as existing or proposed. Applicant should address solid waste disposal.

F. **Signage**

In addition to traffic signs, the plans detail typical property signage. Testimony should be provided as to whether these property signs are existing and if any new signage is proposed, which should adhere to the requirements of Section 250-25. Applicant should clarify if any new site identification is proposed.

G. **Fences and Walls**

1. The applicant proposes a series of fence types including a VLP fence, a chain link fence, a decorative aluminum fence, and an ornamental fence. The applicant proposes to construct a six foot high chain link fence with barbed wire around the perimeter of the property. The applicant should clarify if the proposed height includes the barbed wire. The proposed chain link fence detail should be revised accordingly.
2. The applicant should clarify the type of fencing around the center parking lot.
3. The plan illustrates a proposed segmented waste block retaining wall that is two courses high. The height of the wall in feet should be provided on the plans.
4. The applicant proposes a 9 foot high VPL fence, which includes 1 foot of barbed wire. Per Section 250-22E, fences and walls around industrial uses are limited to eight feet in height.

H. **General**

1. The applicant proposes a car access gate at the first parking row/bay beyond the main entrance, and should indicate if this parking is for visitors use as well.
2. Applicant should confirm if proposed improvements are permitted within the New Jersey Public Service Electric and Gas (PSE&G) easement, which is shown through a significant portion of the main parking area.

3. Testimony should be provided that no site improvements or changes to the existing building are proposed.
4. Applicant should address potential impacts of the proposed on emergency services and any impact to the fire department.

I. **Site Safety**

The applicant and owner are reminded that site safety is their responsibility. The plan should note that "The owner, or his representative, is to designate an individual responsible for construction site safety during the course of site improvements pursuant to N.J.A.C. 5:23-2.21(e) of the N.J. Uniform Construction Code and CFR 1926.32(f) (OSHA Competent Person)".

V. **SUMMARY OF VARIANCES AND WAIVERS**

<b>Variances:</b>	Section 250-22.E Section 250-22.Q.6	Fence height Parking space dimension
<b>Waivers:</b>	Section 196-8.B Section 196-8.C	Landscaped buffers Landscaped islands

VI. **APPROVAL PROCESS**

If the Land Use Board should grant final approval to this project, the following is applicable:

1. The applicant's engineer must make appropriate revisions to the site plan pursuant to the Land Use Board action.
2. The applicant must contact the Land Use Board office to settle any outstanding review escrow accounts prior to the issuance of building permits.



**VII. OUTSIDE AGENCY APPROVALS**

This plan may be subject to the review and approval of the following outside agencies, if not already received. Evidence of these approvals must be submitted to the Township Land Use Department and this office prior to the final signature of plans:

1. Burlington County Planning Board.
2. New Jersey Public Service Electric and Gas.
3. Any others as may be necessary.

When plans are resubmitted, they are to be accompanied with a point by point response to all underlined items.

If you have any questions regarding this matter, please do not hesitate to call.

Sincerely yours,

**REMINGTON, VERNICK & ARANGO ENGINEERS, INC.**

  
Joseph M. Petrongolo, L.L.A., R.L.A., P.P.

JMP/TG/

cc: A. Duie Pyle, Inc.; Michael Floyd Esq.; Thomas P. Bechard, P.E.; Louis Cappelli, Jr., Esq.; Jim Winckowski, P.E., Board Engineer



# Township Of Westampton



SITE PLAN REVIEW APPLICATION \_\_\_\_\_  
SUBDIVISION APPLICATION \_\_\_\_\_  
MINOR \_\_\_\_\_ MAJOR \_\_\_\_\_  
PRELIMINARY \_\_\_\_\_ FINAL X CONSOLIDATED \_\_\_\_\_

BLOCK 203 LOT 1,03, 2, 3

## 1. GENERAL INFORMATION

A. Applicant Name DOCAN CONTRACTORS, INC.  
Address 94 STEMMIGS LANE, WESTAMPTON, NJ 08060  
Telephone Number 609 871 6200

B. The Applicant is a:  
Corporation\* ✓  
Partnership\* \_\_\_\_\_  
Individual \_\_\_\_\_  
Other (specify) \_\_\_\_\_

\*If the applicant is a corporation or a partnership, please attach a list of the names and addresses of persons having a 10% interest or more in the corporation or partnership.

✓ SEE ATTACHED

C. The relationship of the applicant to the property in question is:  
Purchaser under contract \_\_\_\_\_  
Owner X  
Lessee \_\_\_\_\_  
Other (specify) X DEVELOPER

Attorney MR. RUSSELL W. WHITMAN ESQ.  
Address 44 EAST WATER STREET, TOMS RIVER, NJ 08753  
Telephone Number 732 341 0010

D. Engineer/Surveyor: MR. BILL STEVENS, PE

Address 1245 AIRPORT ROAD, SUITE ONE, LAKEWOOD, NJ

Telephone Number 732-363-0060 08701

## 2. INFORMATION REGARDING THE PROPERTY

A. Street address of the property 32 SPRINGSIDE ROAD

B. The location of the property is approximately 300 feet from the intersection of IKKA DRIVE and SPRINGSIDE ROAD

C. Existing use of the property WAREHOUSE

Proposed use of property WAREHOUSE

D. Zone in which property is located OR-3

E. Acreage of property 42 - APPROX.

F. Is the property located on a County road? Yes  No ; State road? Yes  No ; or within 200 feet of a municipal boundary? Yes  No

### SITE PLAN APPLICATIONS ONLY (ANSWER ITEMS G, H & I):

AMENDED SITE PLAN APPLICATION  
G. The type of proposal is: New Structure  Expanded area  Improved Parking Area  Alteration to Structure  Expansion to Structure  Change of Use  Sign  MISCELLANEOUS COMPONENTS

H. Name of business or activity (if any) CAMUTO GROUP

I. Are there deed restrictions that apply or are contemplated? N/A  
(if yes, please attach a copy to application)

### SUBDIVISION APPLICATIONS ONLY (ANSWER ITEMS J, K, L & M) N/A

J. Number of lots proposed —

K. Was the property subject to a prior subdivision? Yes  No   
(If so, list dates of prior subdivisions and attach resolutions)

L. Number of lots created on tract prior to this application —

M. Are there any existing or proposed deed restrictions, easements, rights-of way or other dedication? Yes\_\_\_ No\_\_\_ (if yes, attach a copy) \_\_\_\_\_

N. List all proposed on-site utility and off-tract improvements:

GUARD BOOTH, DRIVEWAY ONTO IKEA DRIVE, FENCING, PATIO AREA, ACCESS LANE ON IKEA DRIVE, SITE LIGHTING, LANDSCAPING, STAGING AREA, TRASH COMPACTOR AREA.

---

O. List maps and other exhibits accompanying this application:

\*SEE ATTACHED

---

### 3. INFORMATION REGARDING THE APPLICATION

A. Describe any proposed "C" or bulk variances requested, their location (Block & Lot) and the sections of the Zoning Ordinance from which relief is requested. Attach 1 copy of variance notification documents.

N/A

### 4. CHECK LIST AND WAIVER REQUESTS

A. Please refer to the Ordinance for the specific submission requirements, which are listed in Chapters 196, 215 and 250 (Site Plan Review, Subdivision of Land and Zoning) from the Code of the Township of Westampton.\*

N/A



B. Please list which sections of the Ordinance applicant requests a waiver from and the reasons therefore.

*N/A*

---

5. AUTHORIZATION AND VERIFICATION

I certify the statements and information contained in this application are true.

*P. Wojtowicz*  
Signature of Applicant

*4/20/17*  
Date

*P. Wojtowicz*  
Signature of Owner

*4/20/17*  
Date

*ON BEHALF OF SPRINGSIDE  
REDEVELOPMENT*

\*Copies of the Township Ordinance are available for purchase at the Westampton Township Municipal Building. The entire ordinance is also available on the Internet at the Township website: <http://www.westampton.com>

EXHIBIT A

<u>Member</u>	<u>Percentage</u>
E. Dolan Holdings Limited Partnership	46%
Michael J. And M. Theresa Dolan	37%
Russell W. Whitman	9%
Margaret Dolan	4%
John Cornley	4%

**PRINCIPALS**

Edward Vernick, PE, CME, President  
 Craig F. Remington, PLS, PP, Vice President  
 Michael D. Vena, PE, PR, CME (deceased 2006)  
 Edward J. Walberg, PE, PR, CME, CFM  
 Thomas F. Beach, PE, CME  
 Richard G. Arango, PE, CME  
 Kim Wendell Bibbs, PE, CME  
 Marc DeBlasio, PE, PR, CME, CPWM, CEP  
 Alan Dillenhofer, PE, PR, CME  
 Leonard A. Falola, PE, PR, CME  
 Christopher J. Fazio, PE, CME  
 Terence Vogt, PE, PR, CME  
 Dennis K. Yoder, PE, PR, CME

**SENIOR ASSOCIATES**

Charles E. Adamsen, PLS, AET  
 John J. Cantwell, PE, PR, CME  
 Richard B. Czekanski, PE, CME, BOEE  
 Annina Hogan, PE, RA, CME, CPWM, LEED-AP  
 Kenneth C. Ressler, PE, CME  
 Frank J. Seney, Jr., PE, PR, CME, NBS  
 Gregory J. Sullivan, PE, PR, CME, CEA

**PLEASE REPLY TO THE NOTED OFFICE**

**Remington & Vernick Engineers**  
 232 Kings Highway East  
 Haddonfield, NJ 08033  
 ☐ (856) 795-9595

51 Haddonfield Road, Suite 260  
 Cherry Hill, NJ 08002  
 ☐ (856) 795-9595

**Remington, Vernick  
& Vena Engineers**  
 9 Allen Street  
 Toms River, NJ 08753  
 ☐ (732) 266-9220

3 Jicama Boulevard, Suite 300-400  
 Okl Bridge, NJ 08857  
 ☐ (732) 955-8000

**Remington, Vernick  
& Walberg Engineers**  
 845 North Main Street  
 Pleasantville, NJ 08232  
 ☐ (609) 645-7110

4907 New Jersey Avenue  
 Wildwood City, NJ 08260  
 ☐ (609) 622-6150

Melford Plaza I, Suite 400  
 16701 Melford Boulevard  
 Bowie, MD 20715  
 ☐ (240) 544-6382

**Remington, Vernick  
& Beach Engineers**  
 922 Fayette Street  
 Conshohocken, PA 19428  
 ☐ (610) 940-1050

1000 Church Hill Road, Suite 220  
 Pittsburgh, PA 15205  
 ☐ (412) 263-2200

Univ. Office Plaza, Bellevue Building  
 262 Chapman Road, Suite 105  
 Newark, DE 19702  
 ☐ (302) 266-0212

**Remington, Vernick  
& Arango Engineers**  
 The Presidential Center, Lincoln Building  
 Suite 600, 101 Route 130,  
 Cinnaminson, NJ 08077  
 ☐ (856) 303-1245

One Harmon Plaza, Suite 210  
 Secaucus, NJ 07094  
 ☐ (201) 624-2137

T:\Municipal\Westampton\p012 - Rancocas Park 8 (amended)\review 1.doc

April 27, 2017

Township of Westampton  
 Land Development Board  
 Dave Barger, Chairman  
 710 Rancocas Road  
 Westampton, NJ 08060

Attention: Marion Karp, Secretary

**Re: Amended Final Major Site Plan  
 Planning Review #1  
 Rancocas Park 8  
 32 & 40 Springside Road  
 Block 203, Lot 1.03, 2, & 3  
 Our file # 03-37-P012**

Dear Board Members:

We have reviewed a major site plan submission, received April 21, 2017, consisting of the following:

Sheet	Title	Date	Revised Date
CS	Cover Sheet	09-18-07	04-19-17
C2.1	Overall Site Plan	08-13-09	04-19-17
C3.1	Overall Grading and Drainage Plan	09-18-07	04-19-17
C4.2	Utility Plan	12-09-09	04-19-17
C5	Lighting Plan	08-14-09	04-19-17
C6.1	Landscape Plan	08-14-09	04-19-17
C11	Amended Plan Detail Sheet	04-19-17	----

The plan set was prepared by William A. Stevens, P.E., P.P., Professional Design Services, 1245 Airport Road, Suite 1, Lakewood, New Jersey 08701, (732) 363-0060. The plans should be signed and sealed.

I. **GENERAL INFORMATION**

**Applicant/Owner:** Dolan Contractors, Inc.  
94 Stemmers Lane  
Westampton, NJ 08060  
(609) 871-6200

**Proposal:** In March 2016, the applicant received final major site plan approval to construct a 682,708 square foot warehouse with office space, along with associated site improvements. Currently, the applicant seeks amended site plan approval to relocate nine (9) parking spaces, install two guard booths, construct drive access onto Ikea Drive, add a patio area, and related site improvements.

**Zoning:** OR-3 Office Research

II. **SUBMISSION INFORMATION**

The requirements for preliminary and final site plan details are included under Section 196-9 of the Development Regulations. The following applicable items that are underlined have not been provided. Where waivers are requested appropriate justification should be provided. The Board may either declare the plan incomplete or waive the outstanding items:

All preliminary site plans shall contain the following information:

1. The zoning of the site and the lots adjacent to it and the tax plate, block and lot numbers and the owner of record.
2. Other information as required by the Land Development Board.

All final site plans shall contain the following information:

Construction details, including dimensions and materials of pavement, curbs and walks and details of all special features, including but not limited to inlets, manholes, headwalls, lights, hydrants, valves, traffic control devices, fencing, play equipment, etc.

**III. ZONING REQUIREMENTS**

A. **Use:** The applicant's proposed use is in conformance with the permitted use of the OR-3 zone.

B. **Area and Bulk Requirements:**

Code Reference	Item	Required	Proposed	Status
250-19D	Minimum Lot Area	4 acres	42± acres	C
250-19D	Lot Depth	300 ft.	650 ft.	C
250-19D	Lot Width	250 ft.	1,161 ft.	C
250-19D	Floor to Area Ratio	20%	37.1%	C
250-19D	Building Height	45 ft.	45 ft.	C
250-19D	Principal Bldg. Setback			C
250-19D	Front Yard	75 ft.	119 ft.	C
250-19D	Rear Yard	75 ft.	189 ft.	C
250-19D	Side Yard	40 ft.	239 ft.	C
250-20E	Off-Street Parking	189 spaces	339 spaces (See Note)	C

C - Conformance.

C. **Note:** The plan was previously approved for 339 parking spaces. The applicant proposes to add nine (9) parking spaces to the west of the building and remove nine (9) proposed parking spaces to the north of the building. The Applicant should confirm the parking total on the entire site.

**IV. PERFORMANCE STANDARDS**

A. **Parking, Loading and Circulation**

1. The plans propose a row of nine (9) parking spaces in an existing loading zone. The stall dimensions are 9.5 feet by 18 feet. Per Section 250-22.Q.6, the size of required nonresidential parking spaces shall be 10 feet by 20 feet. The applicant should indicate if this parking is designated for employees, which up to two-thirds of all parking can be reduced to a dimension of 9 feet by 18 feet.
2. Applicant should clarify if the nine loading docks will be eliminated in the proximity of the parking spaces. Testimony should be provided

regarding the need to locate the parking at this location, and traffic safety and circulation in this area. The applicant should address the protection of these vehicles within the loading area and measures being taken to separate the proposed vehicular parking area from the loading area.

3. The applicant proposes drive access onto as well as an acceleration lane along Ikea Drive. Testimony should be provided in regard to the amount of traffic that is anticipated to use this new access point to the site and potential impacts on Ikea Drive.

**B. Planting Design**

1. The plans propose the removal of existing trees within the Ikea Drive right-of-way. This proposed clearing is off of the applicant's site and clarification is needed in regard to replacement plantings proposed as part of this application.
2. The plans propose a series of planting beds along the north side of the building adjacent to the parking area. Details for the five foot wide landscape buffer for the patio area should be provided.

**C. Lighting**

1. It appears that lighting improvements are proposed. An isogrid indicating light intensity per the revised plan is needed. The grid on the plan appears to be inaccurate and incomplete.
2. Any associated light fixtures with the guard booths should be provided. Also, the revised plans should correct the title of the guard booths/house on the detail sheet.

**D. Trash Enclosure (Solid Waste Management)**

The applicant proposes a trash compactor on the west side of the building. Details should be provided illustrating materials, size, and matching colors to the building and any screening from view.

**E. Signage**

The amended plan proposes two identification signs at the entrances of Ikea Drive and Springside Road. The setback and details of the signs should be provided and should adhere to the requirements of Section 250-25. The plan indicates that the details are on Sheet 9, which is not included.



F. **Fences and Walls**

1. The applicant proposes fencing at points along the perimeter of the property. The detail should be provided for the four foot high chain link fence.
2. The applicant proposes a corral fence around the infiltration basin. The revised plans should include the fence details including materials and height and colors.
3. The plans illustrate a proposed retaining wall to the southwest of the property and a gravity retaining wall with a canopy to the northeast of the property. The details for the walls, including height and material, should be provided.

G. **Miscellaneous**

1. The applicant has indicated a proposed foundation with the amended plan. This should be clarified if proposed. If so, details should be provided.
2. The applicant proposes a flagpole. The post details should be provided.
3. The applicant proposes a patio area for employees, which has proposed bicycle/motorcycle parking. A bicycle rack detail and dimensions of the motorcycle parking should be provided. Appropriate details for this area should be provided, including dimensions for parking, landscaped area, and fencing. Applicant should clarify detail #16 and #17 on C-11.
4. Testimony should be provided that no site improvements or changes to the existing building are proposed.

H. **Site Safety**

The applicant and owner are reminded that site safety is their responsibility. The plan should note that "The owner, or his representative, is to designate an individual responsible for construction site safety during the course of site improvements pursuant to N.J.A.C. 5:23-2.21(e) of the N.J. Uniform Construction Code and CFR 1926.32(f) (OSHA Competent Person)".

**V. SUMMARY OF VARIANCES AND WAIVERS**

**Variances:** None requested.

**Waivers:** None requested.

**VI. APPROVAL PROCESS**

If the Land Use Board should grant final approval to this project, the following is applicable:

1. The applicant's engineer must make appropriate revisions to the site plan pursuant to the Land Use Board action.
2. The applicant must contact the Land Use Board office to settle any outstanding review escrow accounts prior to the issuance of building permits.

**VII. OUTSIDE AGENCY APPROVALS**

This plan may be subject to the review and approval of the following outside agencies, if not already received. Evidence of these approvals must be submitted to the Township Land Use Department and this office prior to the final signature of plans:

1. Burlington County Planning Board.
2. New Jersey Public Service Electric and Gas.
3. Any others as may be necessary.

When plans are resubmitted, they are to be accompanied with a point by point response to all underlined items.

Page 7  
Township of Westampton  
April 27, 2017

If you have any questions regarding this matter, please do not hesitate to call.

Sincerely yours,

**REMINGTON, VERNICK & ARANGO ENGINEERS, INC.**

  
Joseph M. Petrongolo, E.L.A., R.L.A., P.P.

JMP/TG/

cc: Dolan Contractors.; Russell Whitman, Esq.; Bill Stevens, P.E.; Louis Cappelli, Jr.,  
Esq.; Jim Winckowski, P.E., Board Engineer



Patricia G. Wood  
Paralegal  
Direct 856.355.2924  
wood@hylandlevin.com

Hyland Levin LLP  
6000 Sagamore Drive, Suite 6301  
Marlton, NJ 08053-3900  
main 856.355.2900  
fax 856.355.2901  
www.hylandlevin.com

April 19, 2017

Via Hand-Delivery

Ms. Marion Karp, RMC, CMR  
Secretary, Land Development Board  
Township of Westampton  
710 Rancocas Road  
Westampton, NJ 08060

Re: Virtua Health, Inc.  
798 Woodlane Road a/k/a Block 1201, Lot 20  
Site Plan Waiver Application

Dear Ms. Karp:

Enclosed please find an original and thirteen (13) copies of a Site Plan Waiver Application with attached description of the Mobile Farmers Market program, Authorization of Woodlane Associates, and a set of photos which include the bus used for the market and views of the shopping center, including an aerial view with the proposed location for parking the bus. Also enclosed are checks in the amount of \$100 for the application fee and \$300 for the escrow fee. Please advise if you should require anything further. We request this matter be scheduled for consideration by the Land Development Board at the May 3, 2017 meeting. Thank you for your assistance with regard to this matter.

Very truly yours,

A handwritten signature in blue ink that reads 'Patricia G. Wood'.

Patricia G. Wood  
Paralegal to William F. Hyland, Jr.

Enclosures

cc: Russell Weitz (w/enc., via e-mail)  
James Rivard (w/enc., via e-mail)  
Suzanne Ghee (w/enc., via e-mail)

WESTAMPTON TOWNSHIP  
SITE PLAN WAIVER APPLICATION

Date Filed (for office use only): \_\_\_\_\_

Block: 1201 Lot: 20

Applicant Name: Virtua Health, Inc., Attn: Suzanne Ghee

Address: 303 Lippincott Dr., Marlton, NJ 08053

Present Owner's Name: Woodlane Associates Limited Partnership, Attn: Laura Hart – Professional Property Management

Address: P.O. Box 705, Medford, NJ 08055

Location of Site: 798 Woodlane Road, Westampton

Zoning Classification: Commercial Present Use: Shopping Center

Proposed Use: Describe in detail the proposed change, as well as your reason for the request for waiver. Attach a sketch illustrating the proposed change or its location and all other details of the entire property that are applicable, particularly parking spaces, type of existing material on drives and parking area and circulation patterns. If existing building, attach a picture of same.

The Virtua Mobile Farmers Market Program is a community health and outreach program on four wheels to deliver fresh, affordable produce to identified food insecure communities. The goal of this program is to provide access and health education to foster healthy behavior change to address chronic disease and social determinants of health. The market will be visiting the shopping center 1 day a week for 2-3 hours.

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Please submit 14 copies of the application and sketch. Applications must be received three (3) calendar weeks before the meeting at which you would like your application to be considered.

Filing Fee: \$100.00 Escrow Fee: \$300.00 (Please submit separate checks)

In the event site plan waiver is not granted, the above fees will be applied to your site plan application. The balance of the fees and all escrows will be required in the event site plan review is not waived.



### Coming May 2017 to a Neighborhood Near You!

In May, Virtua will launch a new and innovative program to address food insecurity and hunger in our patient community. The overarching goal of the Virtua Mobile Farmers Market Program is to provide better access to nutritious, fresh produce in our underserved communities. Virtua is also proud to partner with Whole Foods Markets to be the exclusive provider of produce.

As part of Virtua's mission to help our patient community Be Well, Get Well and Stay Well, this program will operate as a community benefit initiative. Research supports the correlation of poor health and food insecurity especially in low income communities. In New Jersey, **1,151,890** people live in food-insecure households. (Source: *Map the Meal Gap, Feeding America and Community Food Bank of New Jersey, 2014.*)

***Food insecurity is defined as the state of being without reliable access to a sufficient quantity of affordable, nutritious food.***

- In Burlington County, it is estimated that over 50,000 people live in food insecure households.
- In Camden County, it is estimated that over 70,000 people live in food insecure households.

In an effort to lessen this issue, Virtua will offer this program to promote access to healthy options and to help reduce chronic disease issues in our community such as diabetes, hypertension, obesity, high-cholesterol and other related conditions.

#### **Fast Facts about the Virtua Mobile Farmers Market:**

1. The Virtua Mobile Farmers Market Program will serve residents in Burlington and Camden counties.
2. The Market will offer affordable access to produce to families who can greatly benefit from this program. The market will operate year-round.
3. The program will measure success by surveying patrons on behavior change such as eating habits, recipes/nutrition and other health and wellness metrics.
4. The Virtua Mobile Farmers Market will sell items at a deeply reduced cost and will accept SNAP benefits. (Supplemental Nutrition Assistance Program).
5. As a health system, Virtua will address the needs of the entire family and not only an individual. Three bag-size choices are offered to our patrons based on the number of people in the family or household. Small, medium or large bags are offered and our policy is to fill to the top for a price-fixed option.
6. Customers who shop with the Virtua Mobile Farmers Market receive a calendar, recipe tips and health information in English and Spanish along with their produce.
7. Virtua works in partnership with its Registered Dieticians to provide health education and nutrition information to support the work of the initiative.

Take a fresh step for your health and visit the mobile farmers market bus, selling affordable fresh fruits and vegetables at select locations.



Sample rendering of the Virtua Mobile Market Bus – Coming Soon!



**Woodlane Associates**

P.O. Box 705  
Medford, NJ 08055  
856-273-6915

**[laurahart@professionalpropertymanagersllc.com](mailto:laurahart@professionalpropertymanagersllc.com)**

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Via Email: [clerk@westampton.com](mailto:clerk@westampton.com), [sghee@virtua.org](mailto:sghee@virtua.org)

April 10, 2017

Westampton Township Clerk  
Marion Karp  
710 Rancocas Road  
Westampton, NJ 08060

Suzanne Ghee  
AVP, Business Growth & Community Health Engagement  
Virtua  
303 Lippincott Drive  
Marlton, NJ 08053

RE: Woodlane Square  
798 Woodlane Road

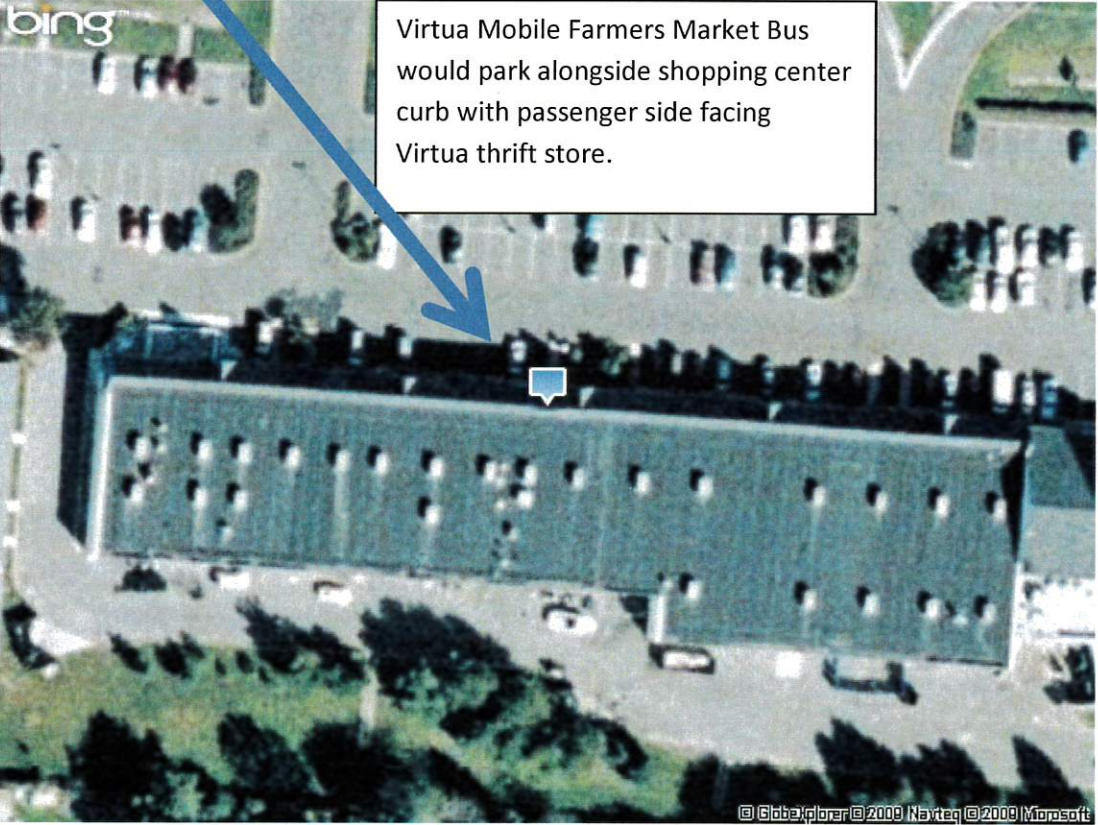
This letter is an authorization, that Woodlane Associates has given permission to Virtual Health Organization to bring a Mobile Farmers Market bus to the Woodane Square Shopping Center. It is our understanding that the bus will be there for a few hours on a weekly basis with the exact date and times to be determined. Our permission is granted with the understanding that Virtua obtains the proper permits that may be required by the Township of Westampton, NJ. Please let our office know if you need anything else from the Landlord.

Laura Hart

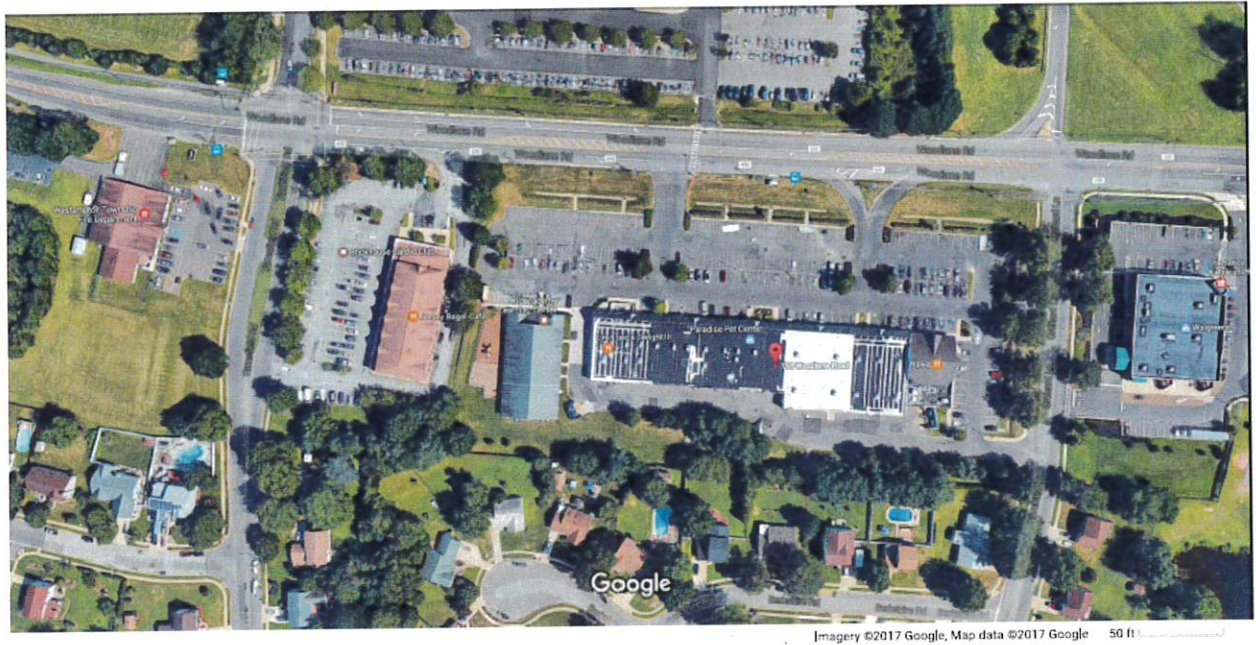
Authorization

Date: 4/10/17

Woodlane Square Shopping Center  
798 Woodlane Road  
Westampton, NJ







(Image of Woodlane Square Shopping Center from Street. We propose to park the vehicle as noted on the image above.)

CONFIDENTIAL  
ATTORNEY CLIENT PRIVILEGED  
ATTORNEY WORK PRODUCT

## MEMORANDUM

**TO:** Marion Karp, Board Secretary  
**FROM:** Lou Cappelli, Esq.; Stephen Boraske, Esq.  
**DATE:** April 19, 2017  
**RE:** Buddhist Association 2017 Summer Retreat

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### I. BACKGROUND

Our firm represents the Westampton Land Development Board (“Board”). The American Association of Buddhist Education (“AABE”) is planning a three-month retreat for the summer of 2017. The retreat will involve between 10-15 monks and nuns. The purpose of the retreat is to provide the monks and nuns opportunities to engage in concentration practices and strictly observe their religious vows and obligations. During the retreat, the monks and nuns typically remain indoors, avoid speaking, and consume only one meal per day. The monks and nuns also engage in meditation, chanting, writing, reciting, learning, and other religious activities.

The daily activities during the retreat will take place in the existing church located at 109 Second Street, Westampton, New Jersey. The monks and nuns will be housed in two separate single family dwellings at 122 Second Street and 212 Second Street (collectively, “Properties”). [See Exhibit “A” for street views of the subject properties].

This memorandum will explore whether the housing of the monks and nuns will require a use variance or whether such an arrangement can simply be considered an extension of the family unit as an accessory or otherwise permitted use in the R-2 Residential Zone.

### II. QUESTION PRESENTED

1. Will the housing of the monks and nuns in the Properties for three months constitute a permissible extension of the family unit or will a use variance be required?



### III. SHORT ANSWER

1. A use variance may be required to house the monks and nuns because the housing of the monks and nuns for a period of three months in a residential zone is likely not a customary or commonly expected accessory use to the principal use of a one-family detached dwelling. See Borough of Chatham v. Donaldson, 69 N.J. Super. 277, 282 (App. Div. 1961) (noting that accessory uses with respect to family homes typically include private religious, educational, cultural, and recreational advantages for the family that do not impair the residential character of the neighborhood).

There are two ways the AABE can house the monks and nuns in the Properties under both the Zoning Ordinance and New Jersey law: (1) as an accessory use to the principal use of the one-family, residential home; and (2) by way of a use variance.

Both the Zoning Ordinance and New Jersey law define an “accessory use” as a use that is incident and subordinate to the principal use. Zoning Ordinance § 250-4; Wright v. Vogt, 7 N.J. 1 (1951). New Jersey case law adds that accessory uses must be “commonly expected,” Mountain Lakes v. Mola, 60 N.J. Super. 419 (Law Div. 1960), and must not impair the residential character of the neighborhood. Borough of Chatham v. Donaldson, 69 N.J. Super. 277 (App. Div. 1961). A reasonable person would likely not “commonly expect” families to house 10-15 religious pilgrims in their homes for a period of three months, no matter how quiet and non-disruptive the houseguests claimed they were going to be. Because the housing of the monks and nuns does not appear to be a permissible accessory use under either the Zoning Ordinance or relevant New Jersey case law, it is unlikely that the housing of the monks and nuns in the Properties could be considered an extension of the family unit or otherwise a permissible use.

However, this is a very close call that is ultimately in the Board’s discretion. If the Board believes that the use will not impair the residential character of the neighborhood due to the unique characteristics of the AABE retreat (i.e., a large amount of time spent indoors, non-speaking religious pilgrims, meditation, etc.), then it is likely permissible for the Board to permit the retreat to move forward without the need for a use variance. Donaldson, 69 N.J. Super. at 282.

Nevertheless, the AABE may need to apply for a use variance if the Board is unwilling to allow the retreat as an accessory use of the Properties. N.J.S.A. 40:55D-70d(1); Price v. Himeji, LLC, 214 N.J. 263 (2013). The application for a use variance will require the AABE to apply to the Board and make a sufficient showing that both the positive and negative criteria necessary for the grant of a use variance can be satisfied by housing the monks and nuns in the Properties.

#### **IV. LEGAL ANALYSIS**

##### **1. Relevant Westampton zoning Ordinance Provisions**

Several provisions of the Westampton Zoning Ordinance (“Zoning Ordinance”) inform this analysis. The properties to house the monks and nuns (122 Second Street and 212 Second Street) are located in the R-2 Residential District. The following Westampton regulations apply in the R-2 Residential Zone:

###### **A. Permitted uses:**

(1) One-family detached dwellings on one-acre lots where public water and sewers are available. On-site water and sewers will be permitted where public facilities are unavailable. Density for projects developed under this subsection should not exceed one unit per net acre.

(2) One-family detached dwellings on lots of 20,000 square feet with both public water and sewers required. Density for projects developed under this subsection shall not exceed two units per net acre.

###### **B. Permitted accessory buildings and structures:**

(1) Private garages and carports.

(2) Private greenhouses not operated for profit.

(3) Animal shelters for domestic pets, provided that the building area does not exceed 25 square feet.

(4) Storage buildings of 200 square feet or less in area.

(5) Private swimming pools accessory to the residential use.

(6) Solar energy systems, subject to § 250-22.1.

###### **C. Uses permitted with a conditional use permit:**

(1) Churches.

(2) Satellite antennas.

(3) Bed-and-breakfast facilities.

Zoning Ordinance § 250-11R-2(A-C) (formatting added).



The Zoning Ordinance defines several of the key terms used in the excerpted provisions above:

Accessory Building, Structure, or Use.

A subordinate use clearly incidental and related to the principal structure, building or use of the land and located on the same lot as that of the principal structure, building or use.

Conditional Use.

A use permitted in a particular zoning district, only upon a showing that such use in a specified location will comply with the conditions and standards for the location or operation of such use, as contained in the Zoning Ordinance, and upon the issuance of an authorization therefor by the Land Development Board. The term “conditional use” was previously referred to as a special exception or a use permitted with a special use permit.

Detached Dwelling.

A building detached from other buildings for residence purposes by one family and which has its own cooking, sleeping, sanitary and general living facilities.

Family.

One or more persons occupying a dwelling unit as a single, nonprofit housekeeping unit, who are living together as a stable and permanent living unit, being a traditional family unit or the functional equivalent thereof.

Principal Use.

A use which is the “main” or “principal” use of the lot; it is the lot’s “first,” “chief” or “most important” use. While commercial or industrial developments and multifamily housing developments may have more than one principal building per lot, they may have only one principal use. Because of the nature of the use and the special problems this use creates, the retail sale of gasoline from pumps located on a lot to the general public shall be presumed to be the lot's principal use.

Zoning Ordinance § 250-4 (formatting added).

**2. Extension of the Family Unit – “Accessory Use”**

The AABE’s housing of the monks and nuns in the Properties likely cannot be considered an extension of the family unit—or in other words, an “accessory use”—because the housing of the monks and nuns for a period of three months in a residential zone is not commonly expected or customarily incidental to the principal use of a one-family detached dwelling. See Borough of Chatham v. Donaldson, 69 N.J. Super. 277 (App. Div. 1961) (noting that accessory uses with respect to family homes typically include private religious, educational, cultural, and recreational advantages for the family). However, if the Board feels that the unique nature of the use will not impair the residential character of the neighborhood, then it may be permitted as an accessory use. Id. at 282.

#### A. Principal and Accessory Uses

Properties may have both a “principal use” and an “accessory use.” Borough of Northvale v. Blundo, 85 N.J. Super. 56, 59 (App. Div. 1964). A principal use is the predominant use of any lot or parcel. Zoning ordinances typically define principal uses and restrict more than one principal use on a single lot. An accessory use is usually defined as one which is incident and subordinate to a property’s principal use. Wright v. Vogt, 7 N.J. 1 (1951). While accessory uses are usually not specifically defined by the zoning ordinance, this does not mean all accessory uses are prohibited or that a variance is always required. See, e.g., State v. P.T. & L. Construction Company, Inc., 77 N.J. 20 (1978); Shim v. Wash. Tp. Planning Bd., 298 N.J. Super. 395 (App. Div. 1997).

An accessory use must also be “customary” to the principal use. In other words, the accessory use must be commonly expected so that it can be assumed the ordinance was not intended to prevent it. Mountain Lakes v. Mola, 60 N.J. Super. 419 (Law Div. 1960). For example, a property used principally as a church could also be used as a sanctuary for the poor because the use of the church as a sanctuary is a customary religious use that was secondary to the church’s principal use as a house of worship. St. John’s Evangelical Lutheran Church v. Hoboken, 195 N.J. Super. 414 (Law Div. 1983). Other examples of valid accessory uses include: day care center as accessory use to principle use of a church; Shim v. Wash. Tp. Planning Bd., 298 N.J. Super. 395 (App. Div. 1997); a day care center, pre-school, and after-school programs as accessory uses to private school; Acorn Montessori v. Bethlehem Tp. Plan. Bd., 380 N.J. Super. 216 (Law Div. 2005); dorms, parking lots, and tennis courts as accessory uses to private university; Hughes v. Monmouth University, 394 N.J. Super. 207 (Law Div. 200), aff’d 394 N.J. Super. 193 (App. Div.), certif. den. 192 N.J. 599 (2007).

New Jersey courts have addressed possible accessory uses to single family, residential dwellings. In Borough of Chatham v. Donaldson, 69 N.J. Super. 277 (App. Div. 1961), the court noted that:

Use by a family of a home under our customs includes more than simple use of a house and grounds for good and shelter. **It also includes its use for private religious, educational, cultural and recreational advantages of the family. As long as the pursuit thereof is not of such a nature, or to such an extent, as to impair the residential character of the neighborhood,** it cannot be supposed a zoning ordinance was intended to prevent it.

Id. at 282 (emphasis supplied).

Accessory uses may also be predicated upon a specific provision relating to accessory uses found in the ordinance. Here, as set forth above, the Zoning Ordinance defines “Accessory Building, Structure, or Use” as follows: “[a] subordinate use clearly incidental and related to the principal structure, building or use of the land and located on the same lot as that of the principal structure, building or use.” Zoning Ordinance § 250-4.

## B. Housing Monks and Nuns as an “Accessory Use”

Given the above authority, it is unlikely that the housing of the monks and nuns in the Properties could be considered an extension of the family unit or an accessory use. Resolving this question begins with a review of the Zoning Ordinance. First, the Zoning Ordinance states: “one-family detached dwellings” are permitted in the R-2 Residential Zone where the Properties are located. The Zoning Ordinance defines “family” as “one or more persons occupying a dwelling unit as a single, nonprofit housekeeping unit, who are living together as a stable and permanent living unit, being a **traditional family unit or the functional equivalent thereof.**” Zoning Ordinance § 250-4. The Zoning Ordinance further defines “accessory use” as a subordinate use **clearly incidental and related** to the principal use. Ibid.

The housing of the monks and nuns cannot be considered a principal use of a one-family detached dwelling. The only permitted principal use in the R-2 Residential Zones is for “one family,” and 10-15 monks and nuns on a religious retreat do not constitute a stable and permanent living unit, nor are the monks and nuns the “functional equivalent” of a traditional family unit. Zoning Ordinance § 250-4.

The issue is whether the housing of the monks and nuns meet the Zoning Ordinance’s definition of an accessory use. This is a much closer question where we must determine whether the housing of the monks and nuns is “clearly incidental and related” to the principal use of the Properties as single family dwellings and if the housing of the monks and nuns will impair the residential character of the neighborhood. Because this answer is not clear from the Zoning Ordinance, we must rely on New Jersey case law on accessory uses. See, e.g., State v. P.T. & L. Construction Company, Inc., 77 N.J. 20 (1978); Shim v. Wash. Tp. Planning Bd., 298 N.J. Super. 395 (App. Div. 1997).

From the review of case law on accessory use set forth in Section IV.2.A, an accessory use must be “customary” to the principal use. In other words, the accessory use must be commonly expected so that it can be assumed the ordinance was not intended to prevent it. Mountain Lakes v. Mola, 60 N.J. Super. 419 (Law Div. 1960). Family homes are not limited solely to housing family units, as they can also be used for religious, educational, cultural and recreational advantages of the family, provided these accessory uses do not impair the residential character of the neighborhood. Borough of Chatham v. Donaldson, 69 N.J. Super. 277 (App. Div. 1961).

Here, it is difficult to see how the housing of the monks and nuns is “customary” to the use of a single family dwelling under Mountain Lakes and Donaldson. A reasonable person would likely not “commonly expect” families to house 10-15 religious pilgrims in their homes for a period of three months, no matter how quiet and non-disruptive the houseguests claimed they were going to be. It is also arguable whether this experience provides any sort of “advantage” to the family. Finally, there is a concern that this sort of use may impair the residential character of the neighborhood, as it deviates from the permitted principal use of housing a stable, single family or functional equivalent thereof. The housing of the monks and

nuns for the purposes of a religious retreat borders on a commercial activity, which is not permitted in the R-2 Zone and could threaten the residential character of the neighborhood.

Because the housing of the monks and nuns does not appear to be a permissible accessory use under either the Zoning Ordinance or relevant New Jersey case law, it is unlikely that the housing of the monks and nuns in the Properties could be considered an extension of the family unit or an accessory use. Accordingly, the AABE will likely need to apply for a use variance. However, this decision is ultimately in the Board's discretion, *see, e.g., State v. P.T. & L. Construction Company, Inc.*, 77 N.J. 20 (1978); *Shim v. Wash. Tp. Planning Bd.*, 298 N.J. Super. 395 (App. Div. 1997), so if the Board feels that the use will not impair the residential character of the neighborhood due to the unique characteristics of the AABE retreat, then it may be permitted as an accessory use. *Id.* at 282.

### 3. Housing of the Monks and Nuns by Way of Use Variance

The determination as to whether the monks and nuns can be housed by way of a use variance is premature at this point, and it will be the AABE's burden to prove the necessary criteria by way of application before the Board if the Board ultimately determines a use variance is required. However, some general law and guidance on use variances is set forth below.

#### A. Use Variances

New Jersey's Municipal Land Use Law, N.J.S.A. 40:55D-1 to -163, exhibits a preference for municipal land use planning by ordinance rather than by variance. *Price v. Himeji, LLC*, 214 N.J. 263, 284 (2013). The statute accomplishes this purpose by requiring that variances be supported by special reasons. N.J.S.A. 40:55D-70(d).

The MLUL "requires an applicant to prove both positive and negative criteria to obtain a use variance." *Smart SMR of New York, Inc. v. Fair Lawn Bd. of Adjustment*, 152 N.J. 309, 323 (1998). The requirement that a use variance be based on proof of the positive criteria arises from the language of the MLUL, which limits the grant of a use variance to those cases in which there is a showing of "special reasons." N.J.S.A. 40:55D-70(d). "Special reasons" takes its definition and meaning from the overall purpose of zoning laws. *Burbridge v. Twp. of Mine Hill*, 117 N.J. 376, 386 (1990). Generally, "special reasons" exist where: (1) when the refusal to allow the project would impose on the applicant an undue hardship; and (2) when a proposed use carries out a purpose of zoning set forth in N.J.S.A. 40:55D-2.

Proof of the negative criteria requires the applicant to demonstrate both that the variance "can be granted without substantial detriment to the public good" and that it "will not substantially impair the intent and the purpose of the zone plan and zoning ordinance." *Price, supra*, 214 N.J. at 285 (citing N.J.S.A. 40:55D-70). The first aspect of the negative criteria focuses on the effect of the variance on surrounding properties, and the second aspect requires that the grant of the variance be reconciled with the municipality's contrary determination about the permitted uses as expressed through its zoning ordinance. *Ibid.*

While zoning boards of adjustment are afforded wide latitude by courts to exercise discretion when granting variances, a board “may not, in the guise of a variance proceeding, usurp the legislative power reserved to the governing body of the municipality to amend or revise the [zoning] plan.” Feiler v. Fort Lee Bd. of Adjustment, 240 N.J. Super. 250, 255 (App. Div. 1990).

## **V. CONCLUSION AND RECOMMENDATION**

A use variance may be required to house the monks and nuns because the housing of the monks and nuns for a period of three months in a residential zone is not a customary or commonly expected accessory use to the principal use of a one-family detached dwelling. Furthermore, this use could impair the residential character of the neighborhood. This conclusion is consistent with both the Zoning Ordinance and New Jersey law.

However, this is a very close call that is ultimately in the Board’s discretion. If the Board believes that the use will not impair the residential character of the neighborhood due to the unique characteristics of the AABE retreat (i.e., a large amount of time spent indoors, non-speaking religious pilgrims, meditation, etc.), then it is likely permissible for the Board to permit the retreat to move forward without the need for a use variance.

**Exhibit A – Property Photos**

Google Maps 128 2nd St



Image capture: Sep 2013 © 2017 Google

Google Maps 212 2nd St

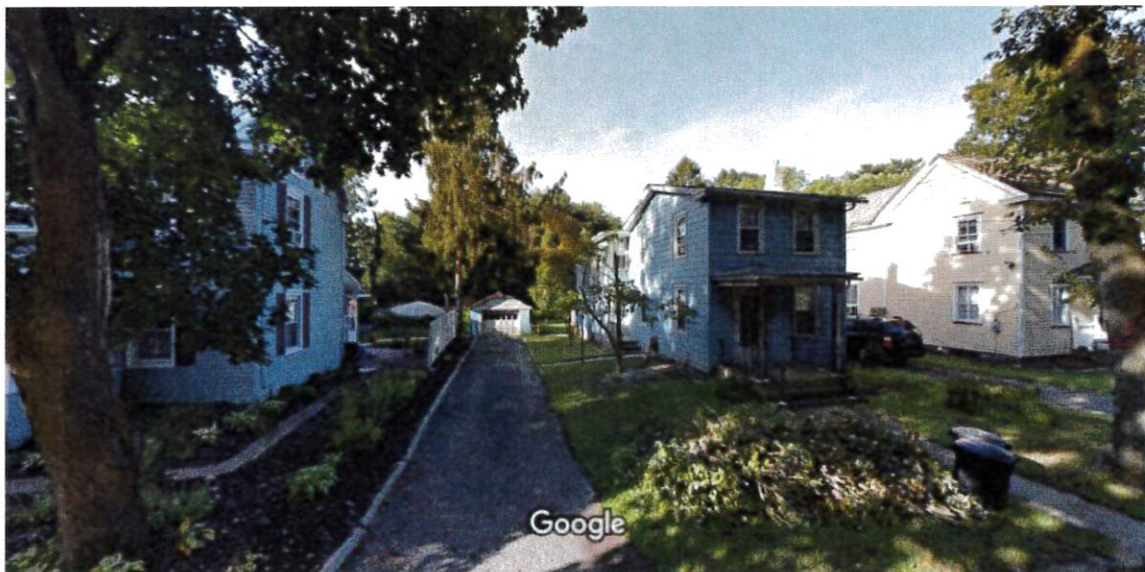


Image capture: Sep 2013 © 2017 Google





Image capture: Sep 2013 © 2017 Google