

RESOLUTION: 14-2022

WESTAMPTON TOWNSHIP LAND DEVELOPMENT BOARD

**APPLICANT'S NAME:** Kristina Dera  
**BOARD'S DECISION:** Resolution Granting Application for Preliminary and Final Site Plan Approval and Variance Relief  
**PROPERTY ADDRESS:** 1844 Route 541, Block 1207, Lot 2  
**ZONING DISTRICT:** C – Commercial District  
**DATE OF HEARING:** May 4, 2022

**WHEREAS**, Kristina Dera (“Applicant”) filed an application with the Westampton Land Development Board (“Board”) requesting preliminary and final site plan approval and variance relief to permit renovation of an existing office building to include a Rita’s Water Ice restaurant on the ground level. The property is located at 1844 Route 541, Westampton, New Jersey, designated as Block 1207, Lot 2 on the Township Tax Map (“Subject Property”). The Subject Property is within the C – Commercial Zone; and

**WHEREAS**, the Board had jurisdiction to hear this matter (the “Application”) under the New Jersey Municipal Land Use Law (“MLUL”), *N.J.S.A. 40:55D-1 et seq.*; and

**WHEREAS**, the Application came before the Board at the regularly scheduled public meeting on May 4, 2022. The Applicant appeared and was sworn in to provide testimony as to the nature, purpose, location and description of the requested site plan approval and bulk variance relief; and

**WHEREAS**, the Board discussed the Application. The Application was open to the public for comment, and any members of the public wishing to comment on the Application were given the opportunity to do so; and

**WHEREAS**, based on all of the evidence submitted to the Board and testimony presented at the May 4, 2022 public hearing, the Board renders the following factual findings and conclusions of law in addition to any contained in the preceding paragraphs:

1. Relief from the proposed conversion is sought from Township Zoning Ordinance (“Township Code”) **Chapter 250**, §250-16.D Lot Area, §250-16.D Lot Width, §250-16.D Side Yard Setback, §250-16.F and §250-22.B(1) Buffer Width, §250-16.D Impervious Cover, §250-16.E(2) Parking, §250-22.R(1) Loading and §250-22.T Curbing.
2. Kristina Dera was sworn in and testified as to the requested relief. The Applicant testified that she was seeking to renovate the existing office building to include a Rita’s Water Ice restaurant on the ground level. She further testified that she has been operating Rita’s located in close proximity to the Subject Property for the past seven years and expressed her opinion that the Subject Property is more suited to conduct a Rita’s business.

3. Ms. Dera further testified that the remaining part of the building would be kept in its same condition and used for office purposes.
4. Ms. Dera testified that the hours of operation would be 12:00 PM to 9:00 PM from March 1<sup>st</sup> through Memorial Day and then 12:00 PM to 10:00 PM until Labor Day. From Labor Day through September 30<sup>th</sup>, the close of the season, the business would operate between 12:00 PM and 8:00 PM. Ms. Dera testified that there would be just one or two employees.
5. Ms. Dera testified that deliveries would be made with a van or small truck delivery between the hours of 3:00 AM and 12:00 PM. No "18 wheelers" would be used for deliveries. Waste Management would come to the property once a week in the morning to pick up recycling and trash.
6. After consultation with the Board's attorney and discussion, the Board determined that a use variance is not necessary for this Application. The proposed uses are permitted in this zone.
7. The Applicant's architect, Raegan Young, described the renovations that are proposed for this building including the floor plan for plan elevations. He testified that the Rita's would be occupying the far-left side of the building utilizing two double windows in the front to serve customers. A third window would be used for Door Dash and pickups. There will be two signs, one freestanding and one façade in compliance with the Township Code.
8. The Applicant's engineer, Bill Nicholson, described the current conditions of the property and the modifications that are proposed on the Subject Property. Mr. Nicholson testified that the front sidewalk from the front of building to the street would be demolished as would the shed in the back of the Subject Property. A new sidewalk along the county road, 5 ft. wide to match the existing sidewalk to the south would be constructed and that accessible roots under the ADA guides would be installed for customers.
9. Mr. Nicholson further testified as to the variance relief being sought. The lot area, the lot width, the side yard setback, the impervious cover are existing conditions. The remaining requested variances meet the positive criteria without negative impacts. The proposed Application will create a more efficient use of the land.
10. The Applicant further testified after discussion by the Board and its professionals that she would agree to the following conditions of approval:
  - a. A 6 ft. solid fence be installed between the Subject Property and residential neighbors with substantial foliage to create a buffer.
  - b. Both trees in the rear parking lot must be removed.
  - c. A lighting plan acceptable to the Board engineer must be presented.

- d. The plans must be amended to show the design of the driveway curve.
- e. Two trash cans will be provided in the parking lot.
- f. The light on the freestanding sign will be lit from the top.
- g. The parking spots on the west side of the parking lot be 9 ft. wide.
- h. The parking spots on the east side of the parking lot be 10 ft. wide.
- i. A 27 ft. buffer be provided on the west side of the parking lot and that the dumpster can impede on this buffer.

11. After sworn testimony was presented by the Applicant, the matter is open to the public for comment. After being sworn in, Brian O'Neal testified that he did not believe there is enough parking on the Subject Property.

12. There being no further, for the public the public portion was closed

13. That is, the requested deviations from the Township Code requirements serve several purposes of MLUL.

14. The evidence submitted and testimony presented by the Applicant and her professionals, the Board finds that the benefits of the requested variances substantially outweigh any detriment, that the variances can be granted without substantial detriment to the public good, and will not substantially impair the intent and purpose of the zone plan and zoning ordinance. N.J.S.A. 40:55D-7(c).

**NOW, THEREFORE, BE IT RESOLVED**, by the Land Development Board of the Township of Westampton, that the within Application for bulk variance relief and preliminary and final minor site plan approval, upon motion duly made by Mr. Carr and seconded by Mr. Odenheimer, was and is hereby **GRANTED**, subject to the testimony presented set forth on the record by the Applicant, and any condition set forth on the record and those specified herein.

<u>ROLL CALL VOTE</u>	<u>Ayes</u>	<u>Nays</u>	<u>Abstentions</u>	<u>Recusal</u>
Carr	X			
Fagan	X			
Grace	X			
Guerrero	X			
Odenheimer	X			
Thorpe	X			

WESTAMPTON LAND DEVELOPMENT BOARD

BY: David M. Guerrero  
David Guerrero, Vice Chairman

ATTEST: Jodie Termi  
Jodie Termi, Board Secretary

DATE MEMORIALIZED: 10-1-72