

RESOLUTION: 04-2024

WESTAMPTON TOWNSHIP LAND DEVELOPMENT BOARD

APPLICANT'S NAME: Occupational Training Center (OTC) of Burlington County

BOARD'S DECISION: Approval of a Minor Site Plan

PROPERTY ADDRESS: 130 Hancock Lane
Block 905, Lot 1.01

ZONING DISTRICT: Business (B-1) District Zone

DATE OF HEARING: January 3, 2024

WHEREAS, on January 3, 2024, the Westampton Land Development Board (“Board”) considered the application of Occupational Training Center (OTC) of Burlington County (the “Applicant”) requesting approval of a minor site plan (“Approval”). The Applicant is proposing to install an emergency generator on the site in the front of the building located at 130 Hancock Lane, designated as Block 905, Lot 1.01 on the Township Tax Map (“Subject Property”), located in the Township’s Business (B-1) Use Zoning District (the “Application”); and

WHEREAS, the Board has 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 Applicant came before the Board at the regularly-scheduled public meeting held on January 3, 2024, represented by Alena Hyatt, Esquire. The Board heard testimony from the Applicant’s engineer, Mark Franz, and the Applicant’s General Manager for the Recycling Division at the OTC, Timothy Whelihan, as to the nature, purpose, location, and description of the Application; and

WHEREAS, the Board discussed the Application and the Board Professionals offered comments. 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; and

WHEREAS, based on all the evidence submitted, the Board renders the following factual findings and conclusions of law in addition to any contained in the preceding paragraphs as well as statements on the record:

1. The Board considered the following submissions from the Applicant:
 - A. One sheet site plan entitled, “Occupational Training Center, 130 Hancock Lane, Westampton NJ, Proposed Emergency Generator,” prepared by RRT Design and Construction, dated September 2, 2023, last revised September 15, 2023; and

B. The Application form.

2. The Board considered the following review letters submitted by the Board Professionals:
 - A. A letter prepared by the Board's Engineer, Michael Roberts, PE, CME, dated October 20, 2023.
 - B. A letter prepared by the Board's Planner, Christopher Dochney, PP, AICP, dated October 25, 2023.
3. The Applicant submitted the following exhibits: **Exhibit A-1** – Arial Map of the site; **Exhibit A-2** – Photograph of Subject Property from 167 Hancock Lane; and **Exhibit A-3** – Photograph of Subject Property from 163 Hancock Lane.
4. The Subject Property is owned by the Applicant and is located at 130 Hancock Lane, Block 905, Lot 1.01, Westampton, New Jersey, lying within the Business (B-1) Zone District.
5. The Applicant seeks approval of a minor site plan to install an emergency generator on the Subject Property.
6. During the January 3, 2024 hearing, Alena Hyatt, Esq., Applicant's attorney; Mark Franz, Applicant's Engineer; and Timothy Whelihan, General Manager for the Recycling Division at the OTC, were sworn in by the Board's Solicitor.
7. Ms. Hyatt presented that the Applicant was seeking minor site plan approval for the installation of the emergency generator on the Subject Property. Ms. Hyatt stated that the Subject Property is located in the Township's Business (B-1) Zoning District. The Subject Property consists of 10+ acres, which is currently developed with a +/- 95,000 square foot warehouse building that is used as a recycling facility by the Applicant. Ms. Hyatt presented that the site plan proposes to place a generator in the front of the building on the Hancock Lane frontage and rearrange the parking lot. Ms. Hyatt indicated that the Applicant only requires one variance for the placement of the generator in the front or rear of the building.
8. Mr. Whelihan presented that the Applicant operated a recycling center, and the only customer is the County of Burlington. He testified that collection trucks go out bi-weekly and that the hours of operation for the facility are 7:00 a.m. to 5:30 p.m. Monday through Friday. The night shift of the facility is a maintenance shift. He further testified that the emergency generator would only be used to maintain the fire pump system and lighting in the event of a fire during a power outage. He testified that the emergency generator would not be used for industrial equipment; and
9. Mr. Whelihan further testified that the plan as proposed would eliminate three parking spots, but there is already more than enough parking on the Subject Property. As such, the Applicant's site plan would not impact general parking during the day or at night; and
10. Mr. Whelihan testified that the Subject Property currently has eight spots for visitors.

11. After being qualified as a Civil Engineering expert, Mr. Franz presented Exhibit A-1, explaining the aerial view of the Subject Property;
12. Mr. Franz provided the mechanics of the diesel tank under the generator and the location of where the Applicant is seeking to place the generator on the Subject Property and the changes in the parking as a result of the generator placement;
13. Ms. Hyatt presented Exhibit A-2, an image of the front of the building, and Exhibit A-3, an image of the left front side of the building where the current generator is located;
14. Mr. Franz testified that the proposed placement of the generator will displace three parking spaces which are being relocated on the site;
15. Mr. Franz further testified as to the location of the electrical room in Exhibit A-3 and where the Applicant is proposing to remove the three parking spaces and placement of the new generator.
16. Mr. Whelihan testified that there is a subdivision over 450 feet away from the Subject Property and that they have a great relationship with the residents therein. Mr. Whelihan testified that the Applicant has only had one complaint from the residents of the subdivision and it was regarding the American flag's light being out at night, which the Applicant replaced promptly. He further provided that the Applicant always have their doors open to the public for tours and invite its neighbors to their employee dinners, so they can learn more about the OTC and what they do in general.
17. Mr. Roberts requested clarification that this generator is only for emergency purposes when the power goes out which Mr. Franz confirmed.
18. Mr. Roberts further asked if the area to the left of the truck scale will be utilized or if it is currently utilized. Mr. Franz responded that it is currently not utilized for anything and explained that the traffic pattern is predominantly one-way where it is marked with one-way signs.
19. Mr. Roberts asked if access to the adjacent property was utilized. Mr. Whelihan responded that the Applicant places bales of hay at the conjoining gate to prevent any litter that falls off the back of trucks from going into the neighbor's property. He also stated that the access to the adjacent property has not been utilized for the last 10 years and the bales of hay are placed at the gate so that the access is not utilized.
20. Mr. Roberts provided that the Applicant should consider moving the three spaces labeled on Exhibit A-1, so that it does not conflict with any turning movements for the trucks. Mr. Whelihan stated that the Applicant does not object to shifting the three spaces pursuant to the Township Engineer's request.
21. Mr. Roberts further discussed the location and screening of the generator.

22. After reviewing his letter, Mr. Dochney testified that if the generator must be in front of the building, screening and landscaping needs to be done. Mr. Dochney further provided that the building is attractive for a warehouse and he would like to maintain that appearance. He further testified that the existing parking condition is insufficient and an issue with the Township code and if the OTC does not want to replace the parking spaces, he does not think it would be a problem.

23. Mr. Guerrero asked if the utility transformer to the south of the building needs to be a certain distance from the generator. He also asked whether the area west of the transformer was explored as a potential location for placement of the generator. Mr. Franz responded that the space was considered, but the Applicant was attempting to avoid impacting the existing impervious coverage because it is currently a grassy area.

24. Mr. Guerrero asked what the increase in impervious coverage would be if the utility transformer and generator are placed to the south of the building. Mr. Franz stated it would be around 450 square feet and the Applicant is currently at 62 percent.

25. Mr. Guerrero and Mr. Roberts discussed with Mr. Franz whether an additional variance would be needed to pour a concrete slab in a different space for the generator but assumed it would not be an issue with the Board.

26. Ms. Hyatt provided that there were additional operational reasons for proposing to place the generator in the proposed location. Mr. Franz testified in support that the location is right outside of the electrical service room and fire pump room. As such, the Applicant would not have to run the electrical through the fire pump room or outside or trench.

27. Mr. Whelihan testified as to the coverings around the existing equipment on the Subject Property, as depicted on Exhibit A-2. He also testified that the Applicant is willing to provide the same coverings for the proposed generator. Ms. Hyatt agreed that the goal is to be consistent with the style.

28. Mr. Thorpe stated that he did not like that the Applicant's plan proposed that the generator be placed at the front of the building because the Township ordinance provides that the generator must be in the rear of the building. He stated that he would be open to the Applicant placing the generator on the southside of the building with a lot of landscaping around it. Mr. Thorpe further stated that the vinyl fencing would not be aesthetically pleasing and violates the Township ordinance.

29. Mr. Borger agreed that it is logical to have the generator close to the electrical input into the building. He also asked if Mr. Franz would provide the pros and cons to having the generator located close to or further from the electrical egress into the building. Mr. Franz advised that he is not qualified to answer, but explained the location would prevent additional disturbance outside and the additional cost.

30. Mr. Thorpe provided that he priced out the cost of a generator for his personal home where his electrical panel is in the front of his house and put the generator behind his home

because the Township ordinance does not allow generators in the front. Mr. Thorpe equated his situation to the Applicant's situation but noted that the generator the Applicant is seeking to install is 450 square feet and takes up three parking spots. As such, Mr. Thorpe stated that two pieces of fence would not be sufficient to cover up the generator, but he would be pleased with fencing and landscaping to blend it in and cover up the generator.

31. Mr. Hyatt testified that the Applicant is willing to screen with the fence and implement additional landscaping.

32. Mr. Dochney, deferring to the landscape architects, which were not present at the meeting, opined it would be feasible. Mr. Dochney also stated that the Board professionals could assist the Applicant's professionals.

33. Mr. Borger further asked Mr. Whelihan whether it would be acceptable if the Board requires screening for the generator and that he will work with the Board professionals in terms of the type of plants, size, and location.

34. Mr. Whelihan agreed to provide screening and work with the Board professionals.

35. Mr. Odenheimer asked how tall the generator is going to be. Mr. Franz responded that it is six feet and ten inches wide, eighteen feet six inches long, and one hundred eighteen inches high.

36. Mr. Borger asked about the diesel capacity of the generator. Mr. Franz responded eight hundred and fifty gallons.

37. Mr. Thorpe reiterated that this is not a small structure and moving it to the rear makes the most sense per the Township ordinances. Moreover, he stated that moving the generator south is a better solution than putting it in the front of the building.

38. Mr. Borger asked whether the generator would block the fire pump room if it were to be located on the west side of the building or if there are obstructions on the west side. Mr. Guerrero further stated that there is already a transformer there, so the electrical lines should already be underground going to the fire pump room.

39. Mr. Franz stated that Mr. Guerrero is correct.

40. Mr. Roberts explained that the controller to turn the generator on and off is going to be in the electrical room, so there will be two lines running back to the generator and the building.

41. Mr. Guerrero advised that it looks like there is plenty of space next to the pad to which Mr. Roberts agreed.

42. Mr. Franz asked whether the Board would rather have that slight decrease in the impervious coverage area and move it to the west side of the building.

43. Mr. Guerrero stated that it makes more sense and will assist the Applicant because it will not have to comply with all the Board's additional requirements to try and hide the generator in the middle of the parking lot. Mr. Guerrero also stated that it would be easier in the alternative location.

44. Mr. Roberts presented that the Applicant must remember that the transformer needs to have a certain amount of offset access.

45. Mr. Guerrero and Mr. Dochney discussed the front-yard variance and the Township code.

46. Mr. Borger asked whether the Applicant would be willing to consider moving the proposed location for the generator to the south side of the building. Mr. Whelihan responded that the Applicant is willing to do what is necessary to install the generator in order to protect the building.

47. Mr. Franz further opined that it would be feasible to move the generator to the south side. He also stated that the Applicant will also need a variance for the accessory structure for the front yard because it will not be behind the rear of the building, and it would have minimal change in impervious coverage.

48. Mr. Guerrero asked Mr. Dochney if this would eliminate the need for some of the variances requested. Mr. Dochney confirmed that it would eliminate the need for some of the variances requested.

49. Mr. Guerrero asked Mr. Roberts whether he was intending to suggest the same orientation for the generator or rotating it ninety degrees.

50. Mr. Roberts confirmed that he intended that the Applicant rotate the generator ninety degrees east to west. He stated that the Applicant could operate the other way, but rotating makes more sense and he would leave it up to them.

51. Mr. Guerrero and Mr. Roberts discussed the possibility of not screening the generator, depending on the orientation of the transformer.

52. The Board unanimously agreed that the public would be better served if the Applicant placed the generator at the south side of the building instead of the front from an aesthetic standpoint and with the minimums increase in impervious coverage.

53. Mr. Borger further stated that if the Applicant agrees to comply with the proposed changes, the Board can consider the application as modified.

54. Mr. Whelihan testified that the Applicant is willing to comply with the Board's proposed changes and will make the necessary adjustments.

55. Ms. Hyatt confirmed that it would be up to the Applicant if it wanted to complete any additional screening if it places the generator on the south side.

56. Mr. Dochney stated that he prefers to see some landscaping and would appreciate it if the Applicant would work with him and the other Board Professionals on it.

57. Mr. Whelihan agreed to work with the Board Professionals on the landscaping and wants to continue to be a good neighbor.

58. Ms. Hyatt presented her closing remarks, concluding the Applicant's presentation.

59. After testimony was presented by the Applicant and comments were made by the Board and the Board professionals, the matter was opened to the public for comment:

60. Mr. Bryan O'Neal stated that he resides in the community in close proximity to the OTC and confirmed that OTC has always been a good neighbor to them. Mr. O'Neal asked whether the OTC has looked into alternatives for a generator other than diesel, how loud the generator will be when they are running it, what kind of fumes are emitted from the generator, what will be the duration of the generator running, what happens if the Applicant does not have the capability to obtain additional fuel in the generator to keep it running, and if there are any storm drains nearby that may be affected if the tank breaks open. Mr. O'Neal also stated that he would prefer that the generator be placed on the side of the building.

61. Mr. Whelihan responded that the Applicant did not look into any other alternatives to diesel. Mr. Franz also responded that while the generator is running, it operates at 74 decibels at 7 meters. He responded that it would be similar to the exhaust of a running tractor trailer. Mr. Whelihan reiterated that it will only be turned on when the facility loses power.

62. Mr. O'Neal asked how long the generator is able to run on a full tank of diesel.

63. Mr. Whelihan responded that it depends on the load being used at the time from event to event. Mr. Franz also stated that the generator with a full tank, running at full capacity would provide 28 hours of electricity.

64. Mr. Whelihan also stated that the Applicant has brought in the Westampton Fire Chief and Fire Official, and they are all onboard and excited with the project.

65. Mr. O'Neal and Mr. Whelihan discussed testing the generator.

66. Mr. Whelihan responded as to the question on the stormwater drain, by advising that to the best of his knowledge that there are not any storm drains located near the proposed location.

67. Mr. Borger asked how the remaining diesel in the tank is measured.

68. Mr. Whelihan responded that it has a gauge on it and a diesel delivery comes to the facility every night so the tank can be filled easily.

69. No more public comment was offered; public comment was closed by the Board.

70. Following a summary of the Application by the Board's Solicitor, Mr. Borger asked for a motion to approve or deny the application as amended at the meeting, moving the location of the generator to the south side of the building, and placing the required screening and landscaping around the generator, and subject to the conditions to which the Applicant has agreed. The Motion to approve was moved by Mr. Odenheimer and seconded by Mr. Guerrero.

NOW, THEREFORE, BE IT RESOLVED, by the Land Development Board of the Township of Westampton, that the Applicant's Application for minor site plan approval of the Subject Property upon motion duly made by Mr. Odenheimer and seconded by Mr. Guerrero, was and is hereby **GRANTED**, subject to the representation set forth on the record by the Applicant and the Applicant's professionals, and any conditions set forth on the record and stated herein.

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

1. The Applicant must modify its proposed site plan to install the generator on the south side of the building and the Applicant's modified site plan for the installation of the generator is subject to the approval of the Board Professionals.
2. The Applicant, with the assistance of the Board Professionals, must implement screening of and landscaping around the generator. The Applicant's proposed plan for screening and landscaping is subject to the approval of the Board Professionals.

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. Upon discovery by the Board 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. In addition, at any time within 45 days after the adoption of this resolution, a party of interest

may appeal to the Superior Court for an order vacating or modifying any term or condition as set forth herein;

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.
11. The Applicant shall comply with all other applicable Township Code requirements.

ROLL CALL VOTE

Ayes Nays Abstentions Recusal

	<u>Ayes</u>	<u>Nays</u>	<u>Abstentions</u>	<u>Recusal</u>
Board Members				
Mr. Borger	X			
Mr. Carr	X			
Mr. Guerrero	X			
Mr. Henley	X			
Mr. Holshue			X	
Mr. Fagan	X			
Mr. Odenheimer	X			
Mr. Thorpe	X			
Mr. Jones	X			

WESTAMPTON LAND DEVELOPMENT BOARD



BY:

Gary L. Borger, Chairman



ATTEST:

Jennifer Cragg, Board Secretary

DATE MEMORIALIZED: February 7, 2024