

**RESOLUTION: 25-2022**

**WESTAMPTON TOWNSHIP LAND DEVELOPMENT BOARD**

**APPLICANT'S NAME:** Ronald and Jennifer Devaney  
**BOARD'S DECISION:** Approval of Bulk Variances  
**PROPERTY ADDRESS:** 42 Roberts Drive – Block 906.01, Lot 21  
**ZONING DISTRICT:** R-1, Residential District  
**DATE OF HEARING:** October 5, 2022

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**WHEREAS**, on October 5, 2022, the Westampton Land Development Board (“Board”) considered the application of Ronald and Jennifer Devaney (the “Applicant”) requesting bulk variance relief, Section 250-10(B)(4) and Section 250-22(A)(1), and approval (“Approval”). The Applicant is proposing to construct a pole barn structure at 42 Roberts Drive, designated as Block 906.01, Lot 21 on the Township Tax Map (“Subject Property”), located in the Township’s R-1 Residential 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 October 5, 2022 and was represented by Matthew Madden, Esquire. The Board heard testimony from the Applicant, Ronald Devaney, 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:

1. The Board considered the following submissions from the Applicant:
  - A. Four sheets of pole bar design from Shirk, LLC, dated March 22, 2022;
  - B. Survey of the Subject Property consisting of one sheet, prepared by Vallee Survey, Inc., dated December 22, 2021;
  - C. Survey with landscaping and septic tank and field added to the plan, consisting of one sheet, prepared by Vallee Surveying, Inc., dated December 22, 2021;
  - D. Three Google Photos of Subject Property, dated October 2019;

- E. One Google Photo of 40 Roberts Drive, dated October 2019; and
- F. The Applicant's 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 September 26, 2022.

3. The Subject Property is owned by the Applicant and is located at 42 Roberts Drive, Block 906.01, Lot 21, Westampton, New Jersey, lying within the R-1, Residential District.

4. The Applicant seeks a Bulk Variance from Section 250-10.B(4) and/or Section 250-22(A)(1) approval for the construction of a pole barn at the Subject Property. The pole barn is to be 960 square feet, which is larger than permitted for a storage building (Section 250-10.B(4)), or private garage (Section 250-22(A)(1)).

5. Matthew Madden, Esq., Applicant's attorney, and Ronald Devaney, the Applicant, were both sworn in by the Board's Solicitor.

6. Mr. Madden presented that the Applicant submitted their Application to construct a pole barn, which would total 960 square feet. The pole barn would measure 24 feet by 40 feet. Mr. Madden further presented the Applicant is seeking a variance related to the size of the proposed pole barn. He indicated the Township's Ordinance allows accessory structures, such as the pole barn, to be a 200 square foot building if the building is considered a storage building. However, he indicated the Ordinance permits a 600 square foot structure if it is considered a private garage. Mr. Madden presented that the pole barn is proposed to be situated where the top portion of the driveway terminates.

7. The Applicant testified that he has lived at the Subject Property for over a year and the pole barn is proposed at the high point of his property. He testified he has antique cars, lawn equipment, and tools that he seeks to store in the pole barn on his property. He testified the pole barn will not be used for residential purposes. He testified the pole barn will have basic electric, LED lights, and outlets. He testified the outside of the pole barn will have security cameras and he would be planting arborvitaes along the line of the adjoining property to reduce the visual impact to his neighbors. He testified the pole barn would comply with the side yard setback requirements and it will vary from 6.5 feet to 7.5 feet; and

8. Mr. Guerrero asked how mature are the arborvitaes going to be upon planting? He asked if there will be any other utilities to be installed besides electric?

9. Mr. Devaney responded the arborvitaes are usually seven to eight feet in height and will be planted five feet apart. He testified there will be no other utilities installed.

10. Mr. Thorpe stated the arborvitaes come anywhere from six to eight feet. Mr. Thorpe commented he would recommend that the arborvitaes be three feet apart.

11. Mr. Guerrero asked whether the door to the pole barn will match the exterior.
11. Mr. Devaney responded he believed the door would be white.
13. Mr. Carr asked what the maximum height of the pole barn will be.
14. Mr. Madden responded stating 16 feet to the peak of the roof.
15. After testimony was presented by the Applicant and comments by the Board and Board Professionals during the October 5, 2022 hearing, the matter was opened to the public for comment.
16. Mr. James Robinson provided comment. He testified he is the house next door to the Applicants' home, and is concerned that the driveway slopes down. He requested the pole barn be moved either closer to the home of the Applicants or towards the back of the Subject Property.
17. Mr. Guerrero asked what the width of the pole barn will be.
18. Mr. Devaney responded the pole barn will be 24 feet wide.
19. Mr. Roberts responded he believed the location of the pole barn on the Subject Property is appropriate. He indicated the driveway makes the most practical sense.
20. Mr. Dochney responded he agreed with Mr. Roberts. He added the Ordinance requires the pole barn to be six feet from the property line and the Applicants have proposed six feet and six inches from the property line.
21. Mr. Robinson reiterated his request to have the pole barn be closer to the house and that it will be an eyesore.
22. Mr. Dochney responded there is space to move the pole barn further from the property line if the Board wanted him to do so.
23. Mr. Odenheimer asked for clarification regarding the size of the pole barn versus what is permitted under the Ordinance.
24. Mr. Guerrero responded the pole barn exceeds the size permitted by the Ordinance.
25. Following a summary of the Application by the Board's Solicitor, Mr. Guerrero asked for a motion to approve or deny the application for Bulk Variances from Section 250-10(B)(4) and Section 250-22(A)(1) by the Applicants. The Motion to approve was moved by Mr. Thorpe and seconded by Mr. Holshue.

**NOW, THEREFORE, BE IT RESOLVED**, by the Land Development Board of the Township of Westampton, that the Applicant's Application for Bulk Variances from Section 250-10(B)(4) and Section 250-22(A)(1) for the installation of a pole barn of 960 square feet at the

Subject Property, which exceeds 600 square feet, and to permit the pole barn to be constructed in front of the rear building line, upon motion duly made by Mr. Thorpe and seconded by Mr. Holshue, 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 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 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 the Board deems appropriate. In addition, at any time within 45 days after adoption of this resolution, a party of interest may appeal to the Superior Court of New Jersey for an order vacating or modifying any term or condition 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 from which governmental and/or public agencies, if any, such approvals are required;

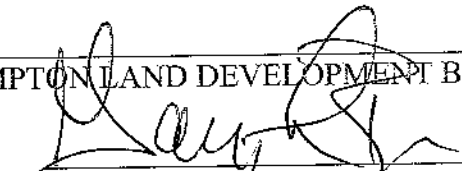
6. The Applicant is further required to submit a copy to the Board's Secretary of all approvals and/or denials received from such outside agencies, with a copy thereof to the Board's Solicitor, Engineer, and Planner;
7. The Applicant must pay the costs of all professional review and other fees required 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 representations and stipulations 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

	<u>Ayes</u>	<u>Nays</u>	<u>Abstentions</u>	<u>Recusal</u>
Board Members				
Odise Carr				✓
Ryan Fagan				✓
David Guerrero	✓			
Sandy Mentley	✓			
Ray Holshue	✓			
Frank Jones	✓			
Joe Addenheimer	✓			
Bob Thorpe	✓			

WESTAMPTON LAND DEVELOPMENT BOARD

BY:

  
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Gary L. Borger, Chairman

ATTEST:

  
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Jodie Termini, RMC, CMR, Board Secretary

DATE MEMORIALIZED: 11-2-2022