

RESOLUTION: 27-2022

WESTAMPTON TOWNSHIP LAND DEVELOPMENT BOARD

APPLICANT'S NAME: Westampton Residential Development, LLC and 26 Laurel Run, LLC

BOARD'S DECISION: Granting a Use Variance

PROPERTY ADDRESS: Block 204, Lots 2 & 2 Q-Farm

ZONING DISTRICT: R-9, Residential District

DATE OF HEARING: November 2, 2022

WHEREAS, Westampton Residential Development, LLC and 26 Laurel Run, LLC (the "Applicant") filed an application with the Westampton Land Development Board ("Board") requesting Use Variance approval ("Approval"). The Applicant is proposing to construct temporary storage, construction trailers, and parking while completing the Laurel Run Project, previously approved by the Board, in the R-9, Residential District Block 204, Lot 2 & 2 Q-Farm on the Township Tax Map ("Subject Property"); 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 received prior approval for the development of the Subject Property; and

WHEREAS, the Applicant came before the Board at the regularly-scheduled public meeting held on November 2, 2022, and was represented by John Giunco, Esquire. The Board heard testimony from the Applicant's witnesses and professionals 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. The Application; and

B. One sheet showing an existing conditions survey drawing from Hammer Land Engineers, undated.

2. The Subject Property is being developed by Westampton Residential Development, LLC and 26 Laurel Run, LLC, located at Block 204, Lots 2 & 2 Q-Farm, Westampton, New Jersey, lying within the R-9 Residential District.

3. The Applicant seeks a Use Variance approval to permit the construction of 16 8'x 20' steel cargo storage containers, 1 32'x 8' construction trailer, 1 20' x 8' construction trailer, and temporary parking as part of the previously approved development at the Subject Property.

4. The Applicant submitted the following exhibits during the July 6, 2022 hearing:

a. Exhibit A-1 - One sheet showing an existing conditions survey drawing from Hammer Land Engineers, undated.

5. Josh Hanarahan, Civil Engineer with Hammer Land Engineer, appearing on behalf of the Applicant was sworn in by the Board's Solicitor.

6. Mr. Giunco presented and introduced the Application to the Board and explained the requested relief.

7. After placing his credentials on the record, the Applicant's Civil Engineer, Mr. Hanarahan, testified before the Board. Mr. Hanarahan testified that the storage containers are necessary to store supplies as they become available because the Applicant is having trouble getting supplies due to supply chain issues. Further, he testified the construction trailers are critical for construction activities. He testified all storage containers and trailers will be locked and have lighting consistent with the Township requirements. He testified there are active fire hydrants on site.

8. Mr. Holshue asked about power or gas to the site because the site currently does not have any and will not receive such until February or March. Mr. Giunco responded indicating his understanding the Applicant would use temporary power or generators. Mr. Holshue inquired about whether the Fire Marshall had been notified about the generator and if any permits were necessary. Mr. Giunco responded indicating he will speak with the Fire Marshall.

9. Mr. Roberts commented if the use of generators will occur, there may need to be a 500-gallon fuel tank on site and there would be a need for spill kits.

10. Mr. Borger asked if there will be signs posted on the property indicating it is monitored by security. Mr. Giunco responded that this was not planned but such could be placed at the site if the Board requires such. Mr. Borger responded in the affirmative for the signs to be placed.

11. Mr. Guerrero requested a cap on how many containers and how many construction trailers are being requested and an expiration date for when the trailers need to be removed.

15. Mr. Borger proposed a cap of 36 months and if more time is needed the Applicant must come before the Board for an extension.

16. After testimony was presented by the Applicant and comments were made by the Board and Board Professionals during the November 2, 2022, hearing, the matter was opened to the public for comment; one member of the public provided comment.

21. Following a summary of the Application by the Board's Solicitor, Mr. Borger asked for a motion to approve or deny the application for a Use Variance with a maximum of 16 storage containers for a maximum of 18 months and 2 construction trailers with their associated alternate locations for a maximum of 36 months and four security signs to be 2' x 2' at the locations indicated by the Applicant on the record. The motion to approve was moved and seconded by Mr. Oddenheimer. The Application was granted by the vote of the Board.

NOW, THEREFORE, BE IT RESOLVED, by the Land Development Board of the Township of Westampton, that the Applicant's Application for a Use Variance with a maximum of 16 storage containers for a maximum of 18 months and 2 construction trailers with their associated alternate locations for a maximum of 36 months and four security signs to be 2' x 2' at the locations indicated by the Applicant on the record was and is hereby **GRANTED**, subject to the representations 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 later 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 bearing on facts 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 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 of New Jersey for an order vacating or modifying any term or condition as set forth herein;

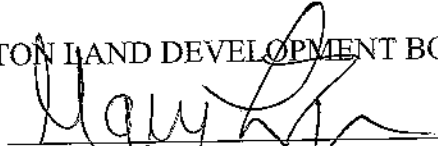
3. The Applicant shall indemnify and hold the Township harmless from any claims whatsoever which may be made as a result of any deficiency in the Application, or as to any representations made by the Applicant, including, but not limited to, proper service and notice upon interested parties made in reliance 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 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, zoning 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

	Ayes	Nays	Abstentions	Recusal
Board Members				
Gary Borger	X			
Ryan Fagan	X			
David Guerrero	X			
Ray Holshue	X			
Frank Jones	X			
Joseph Oddenheimer	X			
Robert Thorpe	X			

WESTAMPTON LAND DEVELOPMENT BOARD

BY:


 Gary L. Borger, Chairman

ATTEST:


 Jodie Termi, RMC, CMR, Board Secretary

DATE MEMORIALIZED: 12-6-72