

RESOLUTION: 6-2024

WESTAMPTON TOWNSHIP LAND DEVELOPMENT BOARD

APPLICANT'S NAME: Dolan Contractors, Inc.
BOARD'S DECISION: Approval of a Preliminary and Final Site Plan
PROPERTY ADDRESS: 94 Stemmers Lane
Block 203, Lot 6
ZONING DISTRICT: Industrial (I) District Zone
DATE OF HEARING: February 7, 2024

WHEREAS, on February 7, 2024, the Westampton Land Development Board ("Board") considered the application of Dolan Contractors, Inc. (the "Applicant") requesting approval of a major site plan ("Approval"). The Applicant is proposing to remove two existing frame sheds to construct a single 11,358 square-foot concrete wall building with a 4,200 square-foot canopy, a 3,750 square-foot parking shelter, the removal and replacement of multiple impervious surfaces with concrete aggregate, located at 94 Stemmers Lane, designated as Block 203, Lot 6 on the Township Tax Map ("Subject Property"), located in the Township's Industrial (I) 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 February 7, 2024, represented by Michael Floyd, Esquire, when the Board heard testimony from the Applicant's engineer, Bernard Wojkowiak, Applicant's planner, William Stevens, and the Applicant's principal, Michael Dolan, 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. Eight-sheet site plan entitled, "Shop Improvements for Dolan Contractors Block 203, Lot 6 at Westampton Township Burlington County, NJ," prepared by Bernard Wojtkowiak, dated October 5, 2023;
 - B. An elevation plan entitled, "Shop Improvements for Dolan Contractors, Block 203, Lot 6," prepared by Dolan Contractors, Inc., dated October 5, 2023;
 - C. A subdivision plan, prepared by Lord Anderson Worrell & Barnett Inc., dated July 11, 2001; and
 - D. 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 December 4, 2023.
 - B. A letter prepared by the Board's Planner, Christopher Dochney, PP, AICP, dated December 27, 2023.
3. The Applicant submitted the following exhibits: **Exhibit A-1** – Aerial Photograph of the Existing Lot; **Exhibit A-2** – Rendering Landscape Plan; **Exhibit A-5** – Elevations for Dolan Shop Shelter; and **Exhibit A-6** – Elevation for New Dolan Shop.
4. The Subject Property is owned by the Applicant and is located at 94 Stemmers Lane, Block 203, Lot 6, Westampton, New Jersey, lying within the Industrial (I) Zone District.
5. The Applicant seeks approval of a major site plan to construct an 11,358 square foot building on the Subject Property.
6. During the February 7, 2024 hearing, Bernard Wojtkowiak, Applicant's Engineer; William Stevens, Applicant's Planner; and Michael Dolan, the Applicant, were sworn in by the Board's Solicitor.
7. Mr. Floyd presented that the Applicant was seeking preliminary and final site plan approval to remove the two existing frame sheds to construct a single 11,358 square-foot concrete wall building with a 4,200 square-foot canopy, a 3,750 square-foot parking shelter, and removal and replacement of multiple impervious surfaces with concrete aggregate, and other associated site improvements on the Subject Property. Mr. Floyd stated that the Subject Property is located in the Township's Industrial (I) Zoning District. The Subject Property consists of 10.36 acres, and is currently developed with an industrial garage/shop, warehouse, office space, vehicle and equipment parking, and a scrap/storage yard. Mr. Floyd presented that the site plan proposes to update the existing structures on the Subject Property. Mr. Floyd indicated that the Applicant requires various variances and design waivers for the proposed approval of the site plan.
8. Mr. Dolan presented the history of the Applicant as a business and the use of the buildings and structures on the Subject Property as the office space and headquarters for the business. Mr. Dolan further testified as to the requested updates to the existing structures on the Subject Property.

9. Mr. Dolan further testified as to the responses to the questions and concerns raised in the Board Professional's reports regarding the loading docks and safety as well as the landscaping and traffic patterns.
10. Mr. Edersole asked Mr. Dolan to speak on parking, lighting, and security at the building. Mr. Dolan responded by explaining the potential conflict with the handicap parking with the dumpster location and deferred to Mr. Wojtkowiak.
11. After being qualified as a civil engineering expert, Mr. Bernard Wojtkowiak presented that if the trash truck comes to pick up or empty the dumpster, then the individual parked in the handicap parking spot will have to temporarily move. Mr. Wojtkowiak admitted that it was not an ideal situation, but it is not an issue from his perspective.
12. Mr. Dolan also testified that this is how they have been operating for many years, but the handicap parking spot will be new and accommodating for visitors. Mr. Dolan further stated that they do not expect to have handicap visitors on the Subject Property often.
13. Mr. Dochney asked how frequently the trash and recycling trucks come to the Subject Property. Mr. Dolan responded that the trash is picked up once a week.
14. Mr. Wojtkowiak presented Exhibits A-1, A-2, A-5, and A-6 to the Board, explaining the shape of the lot, the ingress and egress for the Subject Property, and the changes from the existing structures to the proposed improvements in the Application.
15. Mr. Wojtkowiak further testified that the Applicant will be installing a fire system, and a revised utility plan will be submitted to show piping on the Subject Property.
16. Mr. Dochney asked about the lighting on the Subject Property and wanted it confirmed that the lighting will be consistent with the December 2023 review letter. Mr. Wojtkowiak confirmed that the lighting will be consistent with the December 2023 review letter.
17. Mr. Ebersole asked for a response to question 5F of the Board Engineer's review letter regarding low flow channel and concurrence with the neighboring property. Mr. Dolan responded that the neighbors want grass, and it intends to grade the area on the Subject Property.
18. After being qualified as a planning expert, Mr. Stevens presented the variances that the Applicant is seeking for this Application. Mr. Stevens summarized the purposes of the MLUL and testified that the positive and negative criteria are satisfied by the Application, which justify the Board granting the Application.
19. Mr. Floyd presented his closing remarks, concluding the Applicant's presentation.
20. Mr. Dochney asked for clarification on if there was new signage with the application and if the Applicant was okay with the landscaping changes listed in the review letter. Mr. Dolan responded that there will not be a new sign and the Applicant will adhere to the landscaping changes presented.

21. Mr. Thorpe asked about the Applicant's proposed lighting for the Subject Project and stated that he appreciates what the Applicant provided for the lighting options.

22. 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:

23. No public comment was offered and public comment was closed by the Board.

24. Mr. Borger noted that, overall, there were many variances sought that could have been avoided at not undue expense to the Applicant, but that it is more beneficial to the Township to have the structure on the Subject Property updated than to deny the Application.

25. Following a summary of the Application by the Board's Solicitor, Mr. Borger asked for a motion to approve or deny the application and subject to the conditions to which the Applicant has agreed. The Motion to approve was moved by Mr. Thorpe and seconded by Mr. Guerrero.

26. Due to technical difficulty, Mr. Holshue was not able to activate his video or audio on Zoom but was able to cast his vote by providing an affirmative indication through Zoom.

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. Thorpe 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 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;

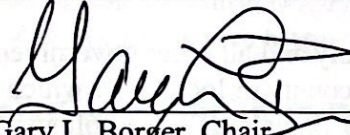
3. The Applicant shall indemnify and hold the Township harmless from any Claims whatsoever which may be made as a result of any deficiency in the Application, or as to any representations made by the Applicant, including but not limited to proper service and notice upon interested parties made in reliance 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. Guerrero	X			
Mr. Henley	X			
Mr. Holshue	X			
Ms. Tolor	X			
Mr. Odenheimer	X			
Mr. Thorpe	X			
Mr. Jones	X			
Mr. Singh	X			

WESTAMPTON LAND DEVELOPMENT BOARD

BY: 

Gary L. Borger, Chair

ATTEST: 

Jennifer Cragg, Board Secretary

DATE MEMORIALIZED: March 6, 2024