

**RESOLUTION OF MEMORIALIZATION
WEST WINDSOR TOWNSHIP ZONING BOARD OF ADJUSTMENT**

In the Matter of the Application by Princeton Junction Commons, LLC for a d(1) use variance, d(4) Floor Area Ratio Use Variance and bulk variances to develop a self-storage facility at 201 Clarksville Road, Block 10, Lot 15.03 West Windsor Township Tax Map.

Resolution in File No. ZB19-10

BE IT RESOLVED by the West Windsor Township Zoning Board of Adjustment (hereinafter referred to as the "Board") that the following findings of fact and basis for the decision approving the above-referenced application on January 23, 2020 is hereby memorialized.

FINDINGS

FINDINGS REGARDING THE APPLICANT:

1. Princeton Junction Commons, LLC (hereinafter referred to as the "Applicant") is the owner of 201 Clarksville Road, also designated as Block 10, Lot 15.03 on the West Windsor Township Tax Map (hereinafter referred to as the "Property").

FINDINGS REGARDING THE NATURE OF THE APPLICATION AND RELIEF SOUGHT:

2. The Applicant proposes developing a self-storage facility on the Property. §200-215 West Windsor Township Land Use Ordinance (hereinafter referred to as the "LUO") sets forth the permitted and conditional uses in the ROM-4 zone. The Applicant's Property is located in the ROM-4 zone. A self-storage facility is not a permitted or a conditional use in the zone. The Applicant, therefore, requires a d(1) use variance.
3. §200-238 LUO for a Ratio (FAR) d(4) Use Variance: Due to environmental constraints on the Property, the permitted FAR for the Property is adjusted to be 0.045 whereas the Applicant is seeking approval of a 0.17 ± FAR. The Applicant, therefore, requires a use variance.
4. §200-6216 E(1) LUO. Bulk Variances: requires a 125-foot front yard setback. Improvements proposed by the Applicant on the Property measured to the right-of-way line represents a setback of 117.5 feet. The Applicant requires a bulk variance.
5. §200-216.E.(3) LUO. Minimum Side Yard Setback. In the ROM-4 District, a 40-foot side yard minimum setback is required. The Applicant proposes a setback of 16 feet for

Building A and 37.5 feet for Building B as measured to the westerly property line. A bulk variance is required.

FINDINGS REGARDING THE BOARD'S JURISDICTION:

6. As indicated above, the Applicant requires d(1) and d(4) use variances to implement the Applicant's self-storage development. The Board has exclusive jurisdiction over this application pursuant to N.J.S.A. 40:55D-70b(1) and b(4) of the New Jersey Municipal Land Use Law.

NOTICE AND PUBLICATION:

- A. The Applicant obtained a list of all property owners within 200 feet of the Property from West Windsor Township.
- B. The Applicant served notice of the application upon all of said owners at least 10 days prior to the hearing on January 23, 2020 and also published notice of the hearing in a newspaper of general circulation within the Township of West Windsor, both of which as required by law.
- C. The Applicant has filed with the Board Secretary Proof of Notice and Proof of Publication indicating that notice was provided to the aforementioned property owners and all required utilities at least 10 days in advance of the hearing on the application.

HEARING:

7. A public hearing was held on the application by the Board on January 23, 2020. The Applicant and all other interested parties were given an opportunity to present evidence and to be heard.

WITNESSES:

8. At the hearing, the Board considered testimony from the following witnesses:
 - A. Eric P. Rosenblum, Managing Member of the Applicant.
 - B. Ralph A. Petrella, PE, Van Note-Harvey Associates, Applicant's Engineering Consultant.
 - C. James P. Kyle, PP, AICP, Kyle + McManus Associates, LLC, Applicant's Planning Consultant.
 - D. Samuel J. Surtees, West Windsor Township Land Use Manager.
 - E. John Walsh, PE, Van Cleef Engineering Associates, LLC, Board's Environmental Engineering Consultant.
 - F. Ian L. Hill, PE, Van Cleef Engineering Associates, LLC, Board Consulting Civil Engineer.
 - G. David Novak, PP, AICP, Burgis Associates, Inc., Board Consulting Planner.

H. James Kochenour, PE, Arora and Associates, PC, Board Traffic Consultant.

STAFF REPORTS:

9. The Board also considered the following staff reports:
- A. Van Cleef Engineering Associates, LLC Environmental Report dated January 13, 2020.
 - B. Mason, Griffin & Pierson, PC, Legal Memorandum, dated January 14, 2020.
 - C. Burgis Associates, Inc. Planning Report dated January 7, 2020.
 - D. Daniel Dobromilsky, LLA/PP/LPE Landscape Architect Report dated January 14, 2020.
 - E. Arora and Associates, PC Traffic Report dated January 13, 2020.

EXHIBITS:

10. The Board considered the following exhibits submitted by the Applicant:

Exhibit A-1: Aerial Photograph of Block 10, Lot 15.03 and surrounding area.

Exhibit A-2: Colored, rendered (Sheet 2) of existing conditions prepared by Van Note-Harvey Associates, Inc. dated September 19, 2019.

Exhibit A-3: Colored, rendered (Sheet 4) of the cleared area on Block 10, Lot 15.03 prepared by Van Note-Harvey Associates, Inc. dated September 19, 2019.

Exhibit A-4: Amended preliminary and final site plan as set forth in Resolution PB-88-27 dated July 14, 2010 memorializing action taken by the West Windsor Township Planning Board on May 26, 2010 approving a 30,000 sf office building on Block 10, Lot 15.03.

Exhibit A-5: Illustration Board containing renderings of the scaled self-storage building proposed to be located on Block 10, Lot 15.03.

Exhibit A-6: Illustration Board with rendering of the façades of the three proposed self-storage buildings on Block 10, Lot 15.03.

FINDINGS BASED ON THE HEARING AND TESTIMONY:

11. Based upon the Board's review of the application materials, testimony presented, review of staff reports, consideration of the witness testimony, the Board makes the following findings:

- A. The Applicant was represented by Dino Spadaccini, The Spadaccini Law Firm, LLC.
- B. The Applicant is the owner of the Property.

- C. The Property is unimproved and is located in the ROM-4 Industrial (“ROM-4”) Zoning District.
- D. The Applicant proposes developing on the Property a self-storage facility. Self-storage facilities at the time of the hearing are not permitted or conditional uses in the ROM-4 Zoning District. The Applicant, therefore, needs a d(1) use variance, a d(4) maximum Floor Area Ratio use variance and several bulk variances.
- E. The Applicant proposes constructing on the Property 78,700 sf of a self-storage facility in three buildings. Building A is a 4-story building containing 55,600 sf. Building B is a one-story building containing 17,600 sf. Building C is a one-story building containing 5,500 sf.
- F. The Property is located along the northerly side of Clarksville Road and consists of 10.65± acres of vacant land. There are significant environmental constraints on the Property including a wetland area and wetland mitigation area, a conservation easement and a portion of the Property is in the Township’s Greenbelt area. Surrounding uses consist of a rail line to the north, the Village Square Retail Market to the northeast, the Avalon Princeton Junction multifamily rental development to the south and office development to the west.
- G. The Applicant received approval from the West Windsor Township Planning Board in 2010 for the construction of a 30,000 sf office building (see Exhibit A-4).
- H. Although the Property consists of 10.65 acres of land, due to existing environmental constraints noted above, only 2.13 acres of the Property will be developed. This development will take place on that portion of the Property which has already been disturbed in preparation for the 30,000 sf office building that was never constructed. Building A, the four-story office building consisting of 55,600 sf of space has been designed to resemble a multistory office building which does fit in with the general character of the area. Proposed Buildings D and C are sited on the Property so that Building A substantially blocks the view of these two buildings from Clarksville Road. The self-storage facility would have one fulltime employee regularly on the Property and six parking spaces are provided for the customers of the self-storage buildings.
- I. At the time the Board considered this application, the Board is aware that the West Windsor Township Planning Board is in the process of preparing an update to the Township’s Land Use Plan. This update includes revisions to the ROM-4 Zoning District. One of those revisions involved adding as a permitted use in the ROM-4 zone self-storage and mini-warehousing uses.

FINDINGS REGARDING THE LEGAL STANDARDS TO BE APPLIED:

12. In evaluating this application, the Board applied the following legal standards:

- A. Use Variance d(1). The Applicant is seeking a commercial use variance and as such the Board must be guided by Medici v. BRP Company, 107 N.J. 1 (1987). The Board, therefore, must be satisfied based on an enhanced quality of proof that the self-storage use does promote the general welfare for the West Windsor Township community because the proposed site is particularly well suited for this use. In addition to considering testimony to justify the “special reasons” to approve the application, the Board is called upon to make clear and specific findings that the variance sought by the Applicant is not inconsistent with the intent and purpose of the Master Plan and the zoning ordinance. The Board must be further satisfied that allowing the proposed use will not have a detrimental impact on any surrounding properties. Finally, the traditionally “negative” criteria must also be met. That involves the finding by the Board that the use variance can be granted without substantial detriment to the public good and the variance will not impair the intent and purpose of the ROM-4 zone plan.
- B. FAR. d(4) Use Variance: Under Randolph Town Center v. Township of Randolph, 324 N.J. Super. 412 (App. Div. 1999), the Board must be satisfied that the Applicant’s property is particularly well suited for more intense development than that permitted by the zoning ordinance. The Applicant must satisfy the Board that the Property can accommodate any problems associated with the Floor Area larger than that permitted by the Ordinance. As indicated for the d(1) use variance, the Applicant must also satisfy the Board that if the variance is approved it will not substantially impair the intent and purpose of the ROM-4 zoning regulations nor negatively impact any uses in the vicinity of the Property.
- C. Bulk Variances c(2). Under Kaufmann v. Planning Board for Warren Twp., 110 N.J. 551 (1988), the Board can grant c(2) variance if the Board is satisfied that for a specific piece of Property, the purposes of a New Jersey Municipal Land Use Law in the West Windsor Township Zoning Regulation would be advanced by a deviation from the strict zoning ordinance requirements and that the benefits of the deviation would substantially outweigh any detriment. The Board is called upon to focus on the characteristics of the Property that would present an opportunity for improved zoning and planning that would generally benefit the West Windsor Township Community.

FINDINGS AND DECISION:

The Board having made the above-referenced findings of fact and applying the above-referenced legal standard voted 7 in favor (Abbey, Hoberman, Church, Roeder, Marks, Garzio and Fridkin) and none opposed to grant to the Applicant the requested d(1) use variance, d(4) FAR use variance and bulk variances to facilitate the construction of the Applicant’s proposed self-storage facility on the Property.

The Board approved this application for a number of reasons. The Board took note of the fact that the zoning regulations for the ROM-4 zone are currently in the process of review and updating by the West Windsor Township Planning Board and revisions to the Master Plan. Self-storage facilities are recommended to be permitted uses in the ROM-4 zone under these land use updates. The Board is also satisfied that the proposed self-storage use is a less intense use than the 30,000 sf office building for which the Applicant has approval on the Property. The traffic impact primarily on Clarksville Road will be substantially less with a storage-facility use on the Property. There is a need in the West Windsor Township community due to the increase over the past number of years and the projected increase in the near future for residential development. Residents of the Township do not now currently have a self-storage facility in the Township to service their needs. The development proposed by the Applicant will address these needs. The increase in the Floor Area Ratio can be sustained appropriately on the Property since due to environmental constraints, a majority of the Property will remain undeveloped. The proposed four-story Building A set back 117.5 feet from the Clarksville Road right-of-way will still permit the building to have appropriate buffering along Clarksville Road. Building A has been designed to blend into the office uses across from the Property on Clarksville Road. The self-storage use on the Property will have no negative impact on any adjacent uses and is actually consistent with the current vision of the ROM-4 zoning regulations.

This approval is subject to the following conditions:


1. The Applicant shall pay to the Township of West Windsor the required non-residential development fee for the West Windsor Township Affordable Housing Program pursuant to *N.J.S.A. 40:55D-8.1 et seq.*
2. Pursuant to Section 4-68.E of the West Windsor Township Code, the variances hereby granted shall remain valid for one year from the date of the adoption of this resolution. If the Applicant does not obtain the necessary construction permits and actually commence construction of the self-storage facilities within said one year, this approval shall lapse. This approval, however, for good cause could be extended by the Board, if so requested by the Applicant.
3. The Applicant shall bring current all real property taxes, sewer charges, municipal assessments and any other municipal charges including land development applications and escrow fees for the Property within 30 days of the date of the adoption of this resolution.

CONCLUSION

Based upon the foregoing findings of fact and for the reasons set forth hereinabove and subject to the conditions also set forth hereinabove, the Board at its meeting on January 23, 2020 voted seven (7) in favor and none opposed to approve this application. This Resolution of Memorialization was adopted on July 23, 2020. The date of decision, however, shall be January 23, 2020 except for the purposes of (1) mailing a copy of the decision to the Applicant within ten (10) days of the date of decision; (2) filing a copy of this decision with the Administrative Officer; and (3) publishing notice of this decision.

CERTIFICATION

I, Erika Ward, Administrative Secretary, to the West Windsor Township Zoning Board of Adjustment do hereby certify that the above Resolution of Memorialization was adopted by the Board at its regular meeting held on July 23, 2020. This Resolution memorializes the Board's approval of this matter at its meeting on January 23, 2020.



Erika Ward, Administrative Secretary
West Windsor Township Zoning Board of Adjustment