

TOWN OF PHILLIPSBURG LAND USE BOARD RESOLUTION NO. 2022-6

RESOLUTION GRANTING SITE PLAN EXEMPTION IN NO. 2022-4

**125-165 Howard Street, LLC – Applicant/Owner
1758 East 4th Street
Brooklyn, New York 11223**

125-165 Howard Street, LLC – Owner

**Block 2007, Lot 1
74 Stockton Street**

Application #2022-4

WHEREAS, 125-165 Howard Street, LLC, (“Applicant”) applied to the Town of Phillipsburg Land Use Board (“Board”) for a Site Plan Waiver under the “Town of Phillipsburg’s Site Plan Ordinance of 1979,” pursuant to N.J.S. 40:55D-51; for certain interior improvements to the existing structure, and for minor renovations to the exterior, of the existing structure on the property identified on the Town Tax Map as Block 2007, Lot 1, with a street address of 74 Stockton Street, Phillipsburg, Warren County; and

WHEREAS, the Applicant appeared before the Board at a regularly-scheduled meeting on April 28, 2022, at which time the Board considered the undated Application and the Board Engineer’s April 19, 2022 review letter, and the Board having determined that said Application was complete by unanimous voice vote; and

WHEREAS, at the preceding hearing, the Applicant was represented by Kevin M. Hahn, Esq., who presented a brief explanation concerning the Applicant’s intended use of the subject property and the exemption sought; and

WHEREAS, the Board has received certain documentation and reports from the Applicant, the Board’s professional consultants and other Interested Parties, all of these having been given due consideration and being the following:

- A. Town of Phillipsburg “Application for Site Plan Exemption” for Block 2007, Lot 1, undated;
- B. Alterations Plan entitled: “Repair/Alteration at 74 Stockton Street for Clay Equities,” prepared by USA Architects dated February 22, 2022, consisting of 3 sheets, unsigned; and
- C. Survey Plan entitled: “ALTA/NSPS Land Title Survey 74 Stockton Street” prepared by First Order, LLC, dated October 8, 2021, revised December 3, 2021 – unsigned and preliminary;
- D. Town of Phillipsburg Fire Chief letter dated April 25, 2022; and

WHEREAS, the Board having considered the letter of the Board engineer dated April 19, 2022, the contents of which the Board adopts and incorporates its finding of fact by reference herein; and

WHEREAS, the Applicant presented the sworn testimony of the following individual on April 28, 2022: Shelby Gasek of Stone Creek Construction Group who is the principal of the Applicant; and

WHEREAS, the following documents were marked as exhibits at the April 28, 2022 hearing and were discussed and testified to by the Applicant's witnesses. These are now included as part of the record:

1. Exhibit "A-1": Alterations Plan entitled: "Repair/Alteration at 74 Stockton Street for Clay Equities," prepared by USA Architects dated February 22, 2022, consisting of 3 sheets, unsigned; and
2. Exhibit "A-2": Survey Plan entitled: "ALTA/NSPS Land Title Survey 74 Stockton Street" prepared by First Order, LLC, dated October 8, 2021, revised December 3, 2021 – unsigned and preliminary; and
3. Exhibit "A-3": Town of Phillipsburg Fire Chief letter dated April 25, 2022; and

WHEREAS, the Board was satisfied with Mr. Gasek's testimony such that the Board did not have any questions or comments; and

WHEREAS, the Applicant did not offer any additional witnesses, documents or evidence; and

WHEREAS, the Board did not have any further inquiry; and

WHEREAS, the Board asked for public comment and received none; and

WHEREAS, the Board considered all of the preceding;

NOW THEREFORE, as a result of the Applicant's presentation, testimony and exhibits presented by the Applicant's witnesses as aforesaid and the documentation submitted, the Board finds as follows:

1. The subject property is located in the Town of Phillipsburg I-1 Industrial Zone.
2. N.J.S. 40:55D-1, *et. seq.*, the "New Jersey Municipal Land Use Law," provides for review and approval of all development applications.
3. The "Town of Phillipsburg's Site Plan Ordinance of 1979" provides for review and approval of all development applications, pursuant to L.O. 510-1, *et. seq.*
4. The Applicant must obtain either Site Plan Approval or a Site Plan Exemption/Waiver from the Board before he develops the subject property.
5. The Board has the authority to grant waivers from the provisions of Chapter 510 of the Town of Phillipsburg's Ordinances, *to wit*, the "Town of Phillipsburg's Site Plan Ordinance of 1979," pursuant to N.J.S. 40:55D-51.
6. N.J.S. 40:55D-51(b) states: "The planning board when acting upon applications for preliminary site plan approval shall have the power to grant such exceptions from the requirements for site plan approval as may be reasonable and within the general purpose and intent of the provisions of the

site plan review and approval of an ordinance adopted pursuant to this article, if the literal enforcement of one or more provisions of the ordinance is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.”

7. L.O. 510-9(C) authorizes the Board to grant a Site Plan Exemption if the criteria set forth in L.O. 510-9(A) & (B) are met.
8. L.O. 510-9(A) states that: “The Board, when acting upon an application for site plan approval, shall have the power to grant such exceptions from the requirements of site plan approval as may be reasonable and within the general purpose and intent of the provisions for site plan review if the literal enforcement of one or more provisions of this chapter is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.”
9. L.O. 510-9(B) states that: “An applicant for any development or change of use of property that does not increase the intensity or use of the property or change the layout of the site or undertake any structural expansion, and further, if it is not physically possible to meet the other requirements of the Zoning or Development Ordinances of the Town of Phillipsburg requiring additional parking, landscaping, buffering, lighting or other such facilities and is so certified, in writing, by the applicant, may file a written application for waiver of the site plan review on forms provided in the office of the administrative officer at least 10 days prior to the next regularly scheduled meeting.”
10. A waiver, or an exemption, is an acknowledgment by the Board that conditions of the property are satisfactory and meet the requirements of the Town of Phillipsburg Ordinances.
11. The Board has authority to grant conditional uses under the “New Jersey Municipal Land Use Law,” pursuant to N.J.S. 40:55D-70 and pursuant to Section 625-81(c) of the “Town of Phillipsburg Zoning Ordinance.”
12. It has been acknowledged by the Board that waivers of the requirements be granted as to each of the items contained in the Completeness Review of the Board’s Engineer.
13. The Board concurs that the condition of the property is satisfactory and meets the requirements of the Town of Phillipsburg Ordinances thereby authorizing the granting of a Site Plan Exemption as requested by the Applicant.
14. The Board concurs that, in all other respects, the condition of the property is satisfactory and meets the requirements of the Town of Phillipsburg Ordinances.

NOW THEREFORE, BE IT RESOLVED THAT the Applicant’s request for a Site Plan Waiver on the property, pursuant to Section 510-9(C) of the “Town of Phillipsburg’s Site Plan Review Ordinance of 1979,” is hereby **GRANTED**, on Motion of Mr. Penrose and Seconded by Mr. Hanisak:

ROLL CALL VOTE

Ayes: Chairman Duffy, Mayor Tersigni, Mr. Zwicker, Mr. Brotzman, Mr. Penrose, Mr. Hanisak
Mr. Turnbull, Mr. Kennedy

Nays: None.

Abstentions: None.

Recused: None.

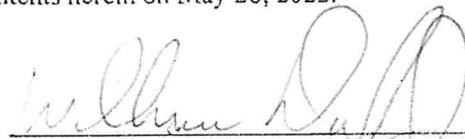
AND IT IS FURTHER RESOLVED THAT the Applicant’s request for Site Plan Waiver for approval of certain interior improvements to the existing structure, and for minor renovations to the exterior, of the existing structure on the property known as Block 2007, Lot 1, located in the Town of Phillipsburg I-1 Industrial Zone, is granted subject to the express and unaltered conformation with the following conditions:

1. The Applicant shall be bound to comply with all comments contained in the Board Engineer’s review letter dated April 19, 2022, as modified at the April 28, 2022 hearing, unless altered by this approval, including any comments contained in subsequent reports. In the event that the Applicant is unable to comply with any of the Board Engineer’s requirements or recommendations, it is understood that it reserves the right to apply to this Board for relief therefrom.
2. The Applicant shall seek a waiver from the requirement to install a sidewalk along Stockton Street and Howard Street, under L.O. 545-18, from the Town Council; and that said waiver must be obtained before construction begins; and further if the Applicant cannot obtain the waiver from the Town Council, then the Applicant must appear before the Board to address the issue before construction begins.
3. The Applicant shall procure, and provide copies to the Board, of all applications, licenses and permits required by all federal, state and municipal agencies.
4. The Applicant shall schedule a pre-construction conference with the Town Engineer’s office at least two days prior to commencement of construction.
5. The Applicant shall pay all outstanding fees and deficiencies in the review escrow account and brings current all real estate taxes, sewer and water charges pertaining to this site.
6. That any portion of any prior Site Plan approvals are hereby vacated to the extent they may be inconsistent with this Site Plan.

7. That the Applicant applies for, and obtains, approval from all other agencies and governmental bodies which may have concurrent jurisdiction over this project including, but not limited to, the Town of Phillipsburg Fire Chief, the Town of Phillipsburg Chief of Police, the Town of Phillipsburg Sewer Utility, Elizabethtown Gas, Aqua New Jersey and Jersey Central Power & Light ("JCP&L").

The foregoing Resolution memorializing the action taken by the Town of Phillipsburg Planning Board was duly adopted at its regular meeting on the 28th day of April 2022, by a majority of the aforesaid members approving the oral approval for the contents herein on May 26, 2022.

Dated: May 26, 2022



WILLIAM DUFFY, CHAIRMAN