

**TOWN OF PHILLIPSBURG LAND USE BOARD RESOLUTION NO. 2023-5**

**RESOLUTION GRANTING SITE PLAN EXEMPTION IN CASE NO. 2023-5**

**AVANTOR PERFORMANCE MATERIALS, LLC – Applicant/Owner  
600 North Broad Street  
Phillipsburg, New Jersey 08865**

**Block 101, Lot 3  
600 North Broad Street**

**Application #2023-5**

**WHEREAS**, Avantor Performance Materials, LLC (“Applicant”) applied to the Town of Phillipsburg Land Use Board (“Board”) for a Site Plan Waiver/Exemption pursuant to Section 510-9 of the “Town of Phillipsburg’s Site Plan Ordinance of 1979” and pursuant to N.J.S. 40:55D-51; for certain interior improvements to the commercial building owned by the Applicant, at the property identified on the Town Tax Map as Block 101, Lot 3, with a street address of 1116 South Main Street, Phillipsburg, Warren County, located in the I-2 Industrial Zone, to permit a four hundred and sixty-two square foot (462’ sq.) modification to the roof of Building No. 126 which includes raising part of the roof to accommodate the installation of a distillation column in the existing building without any changes in the use, intensity, or layout of the site and without any expansion of the building’s footprint (“the Application”); and

**WHEREAS**, the Applicant appeared before the Board at a regularly-scheduled meeting on January 26, 2023, at which time the Board considered the December 22, 2022 Application for Site Plan Waiver/Exemption and the Board Engineer’s January 13, 2023 review letter, and the Board having determined that said Application was complete by unanimous voice vote; and

**WHEREAS**, at the preceding hearing on January 26, 2023, the Applicant was represented by Mark Peck, Esq., who presented a brief explanation concerning the Application, to wit, a request for Site Plan Waiver/Exemption to permit a four hundred and sixty-two square foot (462’ sq.) modification to the roof of Building No. 126 which includes the addition of steel siding internal to the existing building without any changes in the use, intensity, or layout of the site; 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 101, Lot 3, received on December 22, 2022;
- B. Site Plan entitled: “BA Distillation B126 Roof Modification Site Plan,” prepared by Javan Engineering, dated December 21, 2022, consisting of one sheet;

C. Building Plan entitled: "BA Distillation B126 Roof Modification Plan and Elevations," prepared by Javan Engineering, dated December 21, 2022, consisting of one sheet; and

D. January 17, 2023 letter from Town of Phillipsburg Fire Chief; and

**WHEREAS**, the Board having considered the letter of the Board engineer dated January 13, 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 individuals on January 26, 2023:

1. Bryan P. Sullivan, who is the Applicant's process engineering manager; and
2. Robert J. Price, P.E., who is the Applicant's structural engineer; and

**WHEREAS**, the following documents were marked as exhibits at the May 26, 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": C.V. of Robert J. Price, P.E.
2. Exhibit "A-2:" Roof Elevations sheet of Site Plan; and
3. Exhibit "A-3:" Town of Phillipsburg Fire Chief's January 17, 2023 letter; and

**WHEREAS**, Bryan P. Sullivan was the Applicant's first witness, who after being sworn, provided very brief testimony regarding the renovations planned. His C.V. was marked as Exhibit "A-1." He stated that he is Avantor's process engineering manager. He said Avantor wishes to install a distillation column to increase its' ability to make more of aa product which it currently manufactures on site. The product is sold to pharmaceutical and bio-pharmaceutical companies. He gave a brief explanation regarding the distillation process for the product and stated that the increased production will not create any additional hazards on-site because Avantor is very familiar with the product as it manufactures the same now. He further testified there is no change in use of the facility, the manufacturing process, the number of employees, the intensity of traffic and/or traffic circulation on site. He said the building expansion will make Avantor more profitable and efficient. Board Engineer Timothy O'Brien inquired whether there would be changes to the site's current sanitary flows and impervious coverage to which Mr. Sullivan said there would be no changes. Mr. O'Brien then stated that, because there would not be any impervious coverage change, there would be no stormwater run-off regulations to address; and

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

**WHEREAS**, the Applicant next offered Robert J. Price, P.E., who after being sworn, was accepted as a structural engineering expert by the Board based upon his education, training, knowledge and experience and his Curriculum Vitae marked as Exhibit "A-1." Mr. Price testified that he designed the roof improvements. He identified where Building No. 126 is located on the overall site. He then testified that the Applicant proposes to raise an approximate six percent (6%) portion of the building's roof from twenty-

six feet (26') to thirty-two feet (32'). Mr. Price referenced as Exhibit "A-2" the roof elevations sheet of the Site Plan. Mr. Price stated that change in the roof elevation will not affect the skyline because there are buildings on site which are taller than the proposed raised roof. He confirmed that the building is not being changed otherwise and that the building envelope does not change because the floor space is not changing.

**WHEREAS**, the Board was satisfied with Mr. Price'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 then marked the Phillipsburg Fire Chief's January 17, 2023 letter as Exhibit "A-3," did not have any further inquiry; and

**WHEREAS**, the Board considered all of the preceding and also considered the Town's Master Plan, the Town's Zoning Ordinances, the Town's Site Plan ordinances and considered the comments and advice of the Board's engineer; and

**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-2 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 Waiver/Exemption from the Board before it 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 finds that a Site Plan Waiver/Exemption for this property is appropriate based upon the Completeness Review letter of the Board’s Engineer dated January 13, 2023; the presentation of the matter at the January 26, 2023 public hearing; and upon consideration of all the following: (a) the Applicant is not altering the use, intensity or layout of the site, but rather is simply expanding the roof of building No. 126 in order to increase its manufacturing capacity; (b) the exterior of the structure is not altered; and (c) the adjacent properties are not affected; (d) the traffic on and around the site does not change; and (e) the property is being maintained.
12. The Board finds that the granting of the Site Plan Waiver/Exemption as set forth herein is appropriate and is not inconsistent with either the “New Jersey Municipal Land Use Law,” N.J.S. 40:55D-1, *et. seq.*, Town’s Master Plan or the Town’s Zoning Ordinance.
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 Waiver/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/Exemption on the property, pursuant to Section 510-9(C) of the “Town of Phillipsburg’s Site Plan Review Ordinance of 1979,” for approval of interior renovations on the property as noted herein known as Block 101, Lot 3, located in the Town of Phillipsburg I-2 Industrial Zone, is granted is hereby **GRANTED**, on Motion of Mayor Tersigni and Seconded by Mr. Penrose:

**ROLL CALL VOTE**

Ayes: Chairman Duffy, Mayor Tersigni, Mr. Zwicker, Mr. Turnbull, Mr. Penrose and Mr. Bond.  
Nays: None.  
Abstentions: Mr. Brotzman, Mr. Rooney  
Recused: Mr. Hanisak

**AND IT IS FURTHER RESOLVED THAT** the Applicant’s request for Site Plan Waiver/Exemption for approval of interior renovations on the property as noted herein known as Block 101, Lot 3, located in the Town of Phillipsburg I-2 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 January 13, 2023, as modified at the January 26, 2023 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 procure, and provide copies to the Board, of all applications, licenses and permits required by all federal, state and municipal agencies.

3. The Applicant shall schedule a pre-construction conference with the Town Engineer’s office at least two days prior to commencement of construction.

4. 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.

5. That any portion of any prior Site Plan approvals are hereby vacated to the extent they may be inconsistent with this Site Plan Exemption/Waiver.

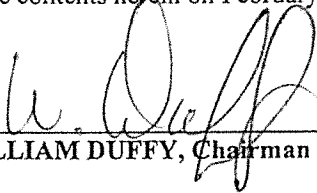
6. The Applicant shall provide and affidavit from the owner of the property that the Site Plan has been submitted with its knowledge and consent pursuant to L.O. 510-11(D)(3)(b).

7. The Applicant shall submit plans and a description of the proposed machinery, operation and products and provide an affidavit acknowledging its understanding of the applicable performance standards and an agreement to conform to the same at all times pursuant to L.O. 625-79.

8. 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 Authority, the Warren County Planning Board, Elizabethtown Gas, Aqua New Jersey and Jersey Central Power & Light (“JCP&L”) and provide copies of permits to the Town pursuant to L.O. 510-11(D)(3)(ff).

The foregoing Resolution memorializing the action taken by the Town of Phillipsburg Planning Board was duly adopted at its regular meeting on the 26<sup>th</sup> day of January, 2023, by a majority of the aforesaid members approving the oral approval for the contents herein on February 23, 2023.

Dated: February 23, 2023

  
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WILLIAM DUFFY, Chairman