

TOWN OF PHILLIPSBURG LAND USE BOARD RESOLUTION NO. 2023-10

RESOLUTION GRANTING PRELIMINARY AND FINAL MINOR SITE PLAN APPROVAL IN NO. 23-09

**NORWESCAP - Applicant
350 Marshall Street
Phillipsburg, New Jersey 08865**

**Falk & Falk, L.P. - Owner
17 Limekiln Road
Bloomsbury, New Jersey 08804**

**Block 101, Lot 12
213 Broad Street**

Application #2023-09

WHEREAS, NORWESCAP (“Applicant”) applied to the Town of Phillipsburg Land Use Board (“Board”) for Minor Site Plan Approval; and any and all design exceptions and/or waivers for certain improvements to the property owned by Falk & Falk, L.P., identified on the Town Tax Map as Block 101, Lot 12, with a street address of 213 Broad Street, Phillipsburg, Warren County, New Jersey, located in the Town’s RRA-1 Riverfront Redevelopment Zone (“the subject property”) for exterior renovations to the existing building to install an overhead door and a dock leveler and to install an interior raised platform for unloading trucks from the new dock door (collectively “the Application”); and

WHEREAS, the Board being satisfied that proper notice was given to neighboring property owners and others entitled to notice, as well as publication pursuant to both the Town of Phillipsburg Code and to N.J.S. 40:55D-12, on or about April of 2023, and having satisfied itself that it had jurisdiction over the Application; and

WHEREAS, the Board being satisfied that the application had been made accessible to the public by both being posted on the Town of Phillipsburg’s website and being physically available for inspection with the Secretary of the Board; and

WHEREAS, the Applicant appeared before the Board at a regularly-scheduled meeting on March 23, 2023, and was represented by Mark Peck, Esq., at which time the Applicant requested certain waivers from the Minor Site Plan checklist, said waivers being summarized in the Board Engineer’s March 21, 2023 review letter, and the Board having determined by unanimous vote of the Board members present that said waivers can be granted temporarily and the Application was determined by the Board to be complete; and

WHEREAS, a public hearing was held on April 27, 2023, where the Applicant, being represented by Mark Peck, Esq., presented a brief explanation concerning the Application and the Applicant’s intended

use of the subject property and the approvals sought and summarized the benefits of the project on the subject property known as Block 101, Lot 12; and

WHEREAS, the Board Engineer and the Board Attorney were satisfied that the Board’s determination of the application’s completeness, which was made on March 23, 2023, remained accurate; and

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

- A. Town of Phillipsburg Zoning Denial of Application, dated February 7, 2023;
- B. Consent of Owner to Application, undated;
- C. Town of Phillipsburg – “Application for Minor or Conventional Site Plans” for Block 101, Lot 12, dated February 3, 2023;
- D. Certification from the Collector Taxes, dated February 6, 2023, that realty taxes and sewer payments were current;
- E. Site Plan entitled: “Norwescap New Loading Dock Project, Block 101, Lot 12, 213 Broad Street, Phillipsburg NJ, 08865, Warren County,” prepared by Ben Horen Architecture & Design, dated January 16, 2023, and consisting of four (4) sheets; and
- F. Town of Phillipsburg Fire Chief letter dated March 15, 2023; and

WHEREAS, the Board has considered the review letters of the Board Engineer dated March 21, 2023, and April 14, 2023, the contents of which the Board adopts and incorporates in its finding of fact by reference herein; and

WHEREAS, on March 23, 2023 at a hearing before the Board on the completeness of the application, the Applicant’s attorney, Mark Peck, Esq., and the Board’s engineer discussed the temporary waivers from the Town’s Site Plan checklist which was requested by the Applicant and which are referenced in the Board engineer’s March 21, 2023 letter and further recommended that the Board grant temporary waivers from the Town’s Preliminary Site Plan Checklist, as outlined in the March 21, 2023 letter, as to items 2a through 2f; and

WHEREAS, before the testimony of the Applicant’s witnesses on April 27, 2023, the Board’s engineer again discussed the waivers from the Town’s Site Plan checklist which was requested by the Applicant and which are referenced in the Board engineer’s March 21, 2023 and April 14, 2023 letters and further recommended that the Board grant temporary waivers as outlined in the March 21, 2023 letter; and

WHEREAS, the Applicant presented the sworn testimony of the following individuals on April 27, 2023:

1. Mark Valli, who is the Applicant's Chief Executive Officer; and
2. Bent Horten, AIA, who is the Applicant's architect; and

WHEREAS, the following documents were marked as exhibits at the April 27, 2023 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": Curriculum Vitae of Ben Horten, AIA;
2. Exhibit "A-2": copy of Site Plan; and
3. Exhibit "A-3": Town of Phillipsburg Fire Chief's March 15, 2023 letter; and

WHEREAS, the Applicant first offered Mark Valli, who is Norwescap's CEO, who after being sworn, testified generally regarding what Norwescap does and the need for the proposed renovation. Norwescap is a comprehensive social services organization that operates a wide variety of education and social service programs which serves approximately thirty thousand (30,000) people annually in Warren, Hunterdon, Sussex, Morris and Somerset Counties. He stated that the goal of the renovation is to increase the on-site food storage capacity for both dry and cold foods. By having an additional loading dock, which is larger, the loading dock will make Norwescap more efficient and increase its' ability to serve more people. He testified that, at the present time, large pallets cannot be unloaded properly. Mr. Valli testified that the existing building simply is too small and that Norwescap rents space in Newark now to store some of its' food which is inefficient and costly. He estimates that the renovation project will increase Norwescap's on site storage capacity by approximately fifty percent (50%); and

WHEREAS, the Chairman then asked the Board members if they had any questions of Mr. Valli and there were none; and

WHEREAS, the Applicant next offered Ben Horton, AIA, who, after being sworn, was accepted as an architectural expert by the Board based upon his testimony regarding his education, training, knowledge and experience and his Curriculum Vitae which was marked as Exhibit "A-1," and provided testimony on behalf of the Applicant. Mr. Horten began this testimony by referencing the Site Plan which he prepared, and which was marked as Exhibit "A-2." He discussed the current layout of the building and how the proposed project will not alter the use, character or functionality of the building. He testified as to the contents of the Site Plan essentially being that the Applicant needs a larger loading dock so that forklifts can take pallets directly off the trucks which is more efficient than what is currently happening. He stated that the new loading dock can be raised and lowered to adjust to different sized trucks. Mr. Horten also testified that because the loading area in front of the loading dock is not a marked parking lot, there is no requirement that the area be designated with ADA parking spaces. He also stated that no additional exterior lighting is proposed. There was then a brief discussion with the Board Engineer and the Board with regard

to whether a sidewalk should be constructed in front of the loading dock area. Mr. Horten stated that he believes a sidewalk is not necessary because there is not a sidewalk there presently and that the existing impervious macadam coverage which abuts the macadam roadway is, in fact, preferable. Upon further discussion, Mr. Horten stated that the Applicant is willing to designate an ADA space in its' existing parking lot and will work with the Board Engineer on that issue; and

WHEREAS, the Chairman then asked the Board members if they had any additional questions and there were none; and

WHEREAS, the Board was satisfied with Mr. Horten's testimony, especially in light of the Board Engineer's comments and review, such that the Board did not have any additional questions or comments; and

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

WHEREAS, the meeting was opened to the public and there none; 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

WHEREAS, the Chairman called for a motion on the Application for Preliminary and Final Minor Site Plan Approval which was made by Mr. Zwicker and seconded by Mayor Tersigni as recorded below; and

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

1. That the subject property is located in the Town of Phillipsburg RRA-1 redevelopment zone.
2. That N.J.S. 40:55D-1, *et. seq.*, the "New Jersey Municipal Land Use Law," provides for review and approval of Minor and Major/Conventional Preliminary and Final Site Plans by the Board.
3. That the Applicant must obtain Minor Site Plan Approval from the Board before it develops the subject property.
4. That 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.
5. That 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.
6. That the existing use of the site is a permitted use in the RRA-1 Zone pursuant which will not change whatsoever by granting this Application.
7. That the exiting Norwescap operation is an existing and thriving operation which well serves needy Town residents.

8. That the proposed modification to the site will improve the Applicant's ability to provide much needed social services and food staples on site and therefore be of substantial benefit to the Town's population.
9. That the proposed modification will make the property site safer to employees, visitors and everyone on site.
10. That the modification of the property will not harm the public at all.
11. That there are currently no other plans to renovate, alter or otherwise improve the existing site.
12. That the proposed modification to the property is not inconsistent with the Town's Master Plan.
13. That the proposed modification to the property is not inconsistent with the "Town of Phillipsburg Zoning Ordinance," as set forth therein pursuant to N.J.S. 40:55D-62, *et. seq.*, and the regulations established thereto.
14. That the proposed use of the property is not inconsistent with New Jersey Municipal Land Use Law, N.J.S. 40:55D-1, *et. seq.*
15. That the Applicant acknowledges that any plans to renovate, alter or otherwise change the existing site cannot take place in the absence of a further site plan application to this Board.
16. That 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 Preliminary and Final Minor Site Plan Approval is hereby **GRANTED**, on Motion of Mayor Tersigni and seconded by Mr. Zwicker

ROLL CALL VOTE

Ayes: Chairman Duffy, Mr. Zwicker, Mayor Tersigni, Mr. Kennedy, Mr. Bond, Mr. Penrose, Mr. Turnbull, and Mr. Rooney.

Nays: None.

Abstentions: None.

Recused: None.

AND IT IS FURTHER RESOLVED THAT the Applicant's request for Preliminary and Final Minor Site Plan approval for renovations to the existing building to install and overhead door and a dock leveler and to install an interior raised platform for unloading trucks from the new dock door, on the property known as Block 101, Lot 12, located in the Town of Phillipsburg RRA-1 Redevelopment 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 letters dated March 21, 2023 and April 14, 2023, as modified at the April 27, 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. Before renovating the building on the subject property, the Applicant shall submit a construction permit application and supporting documentation to the construction official which illustrates that construction is made in accordance with L.O. 625-88. In the event that the Applicant cannot provide the preceding, the Applicant shall make further application to this Board prior to commencement of construction.

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 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.

6. 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 Phillipsburg Sewer Utility, 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).

7. The Applicant shall address any overall site maintenance issues based upon a review by the Town's Inspection Official.

8. The Applicant shall meet with the Board Engineer to discuss in good faith the possibility of making one ADA-compliant parking space in the existing parking lot on site which is van accessible.

9. The Applicant shall ensure that any building mounted light fixtures conform with the Town's lighting ordinances which shall be subject to review by the Town's Inspection Office.

The foregoing Resolution memorializing the action taken by the Town of Phillipsburg Planning Board was duly adopted at its regular meeting on the 27th day of April, 2023, by a majority of the aforesaid members approving the oral approval for the contents herein on May 25, 2023.

Dated: May 25, 2023

WILLIAM DUFFY, Chairman

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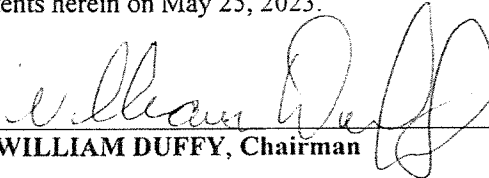
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WILLIAM DUFFY, Chairman