

RESOLUTION No. 2019-18

**EAST WINDSOR PLANNING BOARD
MERCER COUNTY, NEW JERSEY**

**EW Acquisition, LLC (The Seasons at
East Windsor Assisted Living Facility)
359 Princeton Hightstown Road
Block 3 Lot 3.01**

**Hearing Date: July 22, 2019
Board Action: July 22, 2019
Memorialization: September 9, 2019**

**RESOLUTION GRANTING A ONE YEAR EXTENSION OF APPROVED
CONDITIONAL USE AND MAJOR SITE PLAN**

WHEREAS, EW Acquisition, LLC (the "Applicant") is the owner of property located at 359 Princeton Hightstown Road, East Windsor, New Jersey, identified as Block 3, Lot 3.01 on the East Windsor Tax Map (the "Property"); and

WHEREAS, on April 4, 2011, the Applicant received conditional use and preliminary and final major site plan approval to construct a three-story assisted living facility on the Property from the East Windsor Township Planning Board (the "Board") in Resolution 2011-10 (the "Approval"); and

WHEREAS, the Applicant subsequently applied for and received two extensions of time to expand the period of protection for the Approval in accordance with N.J.S.A. 40:55D-52 from the Board, the latest of which expired on June 6, 2019; and

WHEREAS, the Applicant has again applied to the Board for an extension of time to expand the period of protection for the Approval for one year to June 6, 2020; and

WHEREAS, the Board held a public hearing to consider the Applicant's extension request on July 22, 2019; and

WHEREAS, the Applicant complied with the application requirements of the Municipal Land Use Law and the East Windsor land use ordinances and paid in full all property taxes due and owing for the Property and the professional fees/escrow account in connection with the application and the Board entertained jurisdiction over the request; and

WHEREAS, the Applicant submitted the following documents in support of its request:

Letter, dated April 15, 2019, prepared by Andrew Kravis, Esq. of Kravis & Wurgaft,

consisting of two pages, accompanied by Board Resolution 2018-14; and

WHEREAS, a public hearing on the waiver request was held by the Board on the hearing date, at which time the Applicant, represented by attorney George White, Esq. was given the opportunity to present testimony and legal argument, and the Board's consultants and members of the public were given an opportunity to comment on the Application; and

WHEREAS, the Board's experts, Edward Snieckus, Township Planner, A. Maxwell Peters, Township Engineer, and Daniel Dobromilsky, Township Landscape Architect, were sworn in order to provide guidance and testimony to the Board; and

WHEREAS, no members of the public appeared to ask questions or to speak with regard to the application; and

WHEREAS, the Applicant presented information to the Board as more fully set forth on the record from George White, Esq. and Kishan Kansagra, the Applicant's project manager; and

WHEREAS, Mr. White addressed the Board, in part, as follows:

The Applicant is requesting a two year extension of the Approval in order to ensure that the period of protection lasts through the Applicant's commencement of construction. Mr. White explained that the Applicant must yet finalize construction documents for submission to the DCA, resolve the EWMUA connection issues and must finalize construction financing before construction may commence. After discussion with the Board, Mr. White conceded that the Applicant is only entitled to a one year extension and amended the request and asked that the Board grant a one year extension of the Approval; and

WHEREAS, Kishan Kansagra testified before the Board, in part, as follows:

Mr. Kansagra indicated that he is the Applicant's project manager. The Applicant expects that if the DCA approves the construction plans, construction will commence at the beginning of 2020. Therefore, the Applicant requests a one year extension to ensure that the period of protection lasts through the Applicant's commencement of construction of the assisted living facility.

WHEREAS, the Board has made the following findings of fact and conclusions of law:

1. The Property is located at 359 Princeton Hightstown Road, East Windsor, New Jersey, identified as Block 3, Lot 3.01 on the East Windsor Tax Map. The Applicant previously received the Approval to construct a three story, 89,038 square foot assisted living facility on the Property. The Approval was extended by the Board for two years in 2016 and later extended by the Board for another year until June 6, 2019.
2. The Applicant has applied to the Board for relief in the form of an extension of the protection

period for the Approval for one year until June 6, 2020 pursuant to N.J.S.A. 40:55D-52 which allows for such extensions upon the Applicant's demonstration that despite its diligent efforts, the Applicant was barred from proceeding with the development because of the delays in obtaining legally required approvals from other governmental entities.

3. Upon review of the Applicant's testimony, the Board is satisfied that the Applicant was prevented from moving forward with the development by factors not within the Applicant's control. As such, the Board finds that good cause has been shown to approve the extension subject to the conditions imposed in the Approval and herein and subject to the Applicant's representations to and agreements with the Board during the hearing on this Application.

NOW, THEREFORE, BE IT RESOLVED based upon the foregoing findings of fact and conclusions of law, the East Windsor Township Planning Board does hereby extend the Approval for one year until June 6, 2020 in accordance with the facts presented and subject to the Applicant's compliance with the following conditions:

1. The Applicant shall comply with all conditions and requirements contained in Resolution 2011-10 and any additional conditions imposed in Resolutions 2016-06 and 2018-14.
2. The extension herein memorialized shall not constitute, nor be construed to constitute, any approval, direct or indirect, of any aspect of the Applicant's development, which is subject to third-party jurisdiction and which require approvals by any third-party agencies, including but not limited to any State or County agencies. This Resolution is specifically conditioned upon the Applicant securing the approval and permits of all other agencies having jurisdiction over the proposed development.
3. The grant of this extension shall not be construed to reduce, modify or eliminate any requirement of the Township of East Windsor, any Township Ordinances, or the requirements of any Township agency, board or authority, except as specifically stated in this Resolution.
4. The grant of this extension shall not be construed to reduce, modify or eliminate any requirement of the State of New Jersey Uniform Construction Code.
5. The grant of this extension is subject to confirmation of payment of current outstanding real property taxes and all professional and escrow fees and supplementation of escrow account if needed.
6. The grant of this extension is subject to the posting of site improvement performance bonds and inspection escrow fees in accordance with the Township ordinance, if applicable.
7. In accordance with the adopted ordinance provisions and the current requirements of the Township, all construction and site improvements shall take place in strict compliance with the testimony and with the plans and drawings which have been submitted to the Board with the Applicant's request, or which may be revised, and all buildings will be constructed in accordance with the renderings shown to the Board. All construction shall comply with all

Township noise regulations during construction. This requirement shall be included in the Developer's Agreement between the Applicant and the Township Council.

ROLL CALL VOTE ON MOTION TO APPROVE A ONE YEAR EXTENSION:
(July 22, 2019)

Moved By: Mr. Berman

Seconded By: Ms. Clark

Those in Favor: Mr. Berman, Mr. Clark, Mayor Mironov, Ms. Patel, Mr. Shapiro, Mr. Kelley

Those Opposed: None

Those Absent: Mr. Brand, Mr. Catana, Mr. Schmidlin

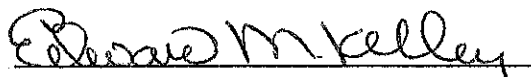
ROLL CALL VOTE TO APPROVE RESOLUTION OF MEMORIALIZATION
(September 9, 2019)

Moved By: Mr. Clark

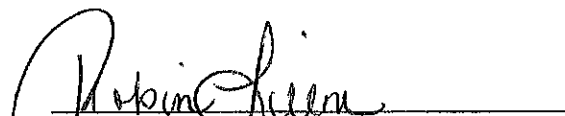
Seconded By: Mr. Berman

Those in Favor: Mr. Berman, Mr. Clark, Mayor Mironov

Those Absent: Mr. Brand, Ms. Patel, Mr. Shapiro, Mr. Kelley


Edward M. Kelley, Chairman
East Windsor Township Planning Board

I hereby certify this to be a true and accurate copy of the Resolution adopted by the East Windsor Township Planning Board, Mercer County, New Jersey at a public meeting held on September 9, 2019.


Robin Tillou, Secretary
East Windsor Township Planning Board