

**RESOLUTION OF THE TOMS RIVER TOWNSHIP  
PLANNING BOARD GRANTING PRELIMINARY AND  
FINAL MAJOR SITE PLAN APPROVAL AND VARIANCE  
RELIEF AND WAIVER RELIEF TO 1599 LAKEWOOD  
ROAD, LLC, BLOCK 410, LOTS 21 & 22**

**WHEREAS**, 1599 Lakewood Road, LLC (the "Applicant"), has applied to the Toms River Township Planning Board (the "Board") seeking Preliminary and Final Major Site Plan Approval associated with the construction of a 3-story, 91,650 SF self-storage facility (Building 1), and a 85,167 SF mixed-use (Building 2) involving 73,686 SF of warehouse, 11,254 SF of office space and 227 SF utility room with additional site improvements on the subject property commonly known as 1599 Lakewood Road, also known as Lots 21 & 22 in Block 410 (the "Property") as shown on the official tax maps of Toms River Township; and

The warehouse architectural plans have the gross building area as 85,167 sf with 11,254 sf of office area, 73,686 sf of warehouse area and a 227 sf utility room.

**WHEREAS**, such proof of publication of notice and hearing as required by the New Jersey Statutory and Municipal Ordinance requirements have been furnished; and

**WHEREAS**, the application was deemed complete on March 27, 2024, pursuant to the applicable provision of the Code of the Township of Toms River; and

**WHEREAS**, after an adjournment from a public hearing on May 15, 2024 at which objectors indicated an issue with certain title issues with adjoining properties, a public hearing was held on October 16, 2024 at the Municipal Building of the Township of Toms River and testimony and exhibits were presented on behalf of the Applicant and all interested parties having been given the opportunity to be heard; and

**WHEREAS**, in support of the application, the Applicant has submitted the following:

- a. *"Preliminary and Final Site Plan 1599 Lakewood Road, Lots 21 and 22, Block 410, Tax Map No. 38.01, situate in Toms River Township, Ocean County, New Jersey".* The drawings, consisting of twenty-seven (27) Sheets, have been prepared by FWH Associates, P.A., and are signed by Brian P. Murphy, NJPE #42000. The drawings are dated 11/13/2023 with a revision date of 07/18/2024;
- b. *"Boundary & Topographic Survey, 1599 Lakewood Road, Lots 21 & 22, Block 410, Tax Map Sheet No. 38.01, situated in Toms River Township, Ocean County, New Jersey."* The drawing, consisting of one (1) Sheet, has been prepared by FWH Associates, P.A., and is signed by William P. Schemel, NJPLS #36275. The drawing is dated 10/13/2022 with a latest revision date of 04/02/2024 indicated;

- c. Architectural Floor Plan for Proposed New Storage Building, prepared by Michael V. Testa Architect, signed by Michael V. Testa, II, NJAI #13796. The drawings, consisting of two (2) Sheets are dated 12/12/2023 with a latest revision date of 07/17/2024 indicated;
- d. Architectural Floor Plan for Proposed New Storage Building, prepared by Michael V. Testa Architect, signed by Michael V. Testa, II, NJAI #13796. The drawings, consisting of two (2) Sheets are dated 12/13/2023 with a latest revision date of 07/17/2024 indicated;
- e. Traffic Impact Analysis has been prepared by McDonough & Rea Associates, Inc. The analysis is dated November 15, 2023, and signed by John H. Rea, P.E. and Scott T. Kennel, Sr. Associate;
- f. *"Stormwater Management Report for Lots 21 and 22, Block 410, Toms River, Ocean County, New Jersey"*. The report has been prepared by FWH Associates, P.A. and is signed by Brian P. Murphy, NJPE #42000. The report is dated 11/6/2023 with a revision date of 05/16/2024;
- g. *"Stormwater Operations and Maintenance Manual for Lots 21 and 22, Block 410, Toms River, Ocean County, New Jersey"*. The report has been prepared by FWH Associates, P.A. and is signed by Brian P. Murphy, NJPE #42000. The report is dated 11/9/2023 with no revision dates indicated; and
- h. *"Soil Erosion and Sediment Control Plan, 1599 Lakewood Road, Lots 21 and 22, Block 410, situated in Toms River Township, Ocean County, New Jersey"*. The drawings, consisting of six (6) Sheets, have been prepared by FWH Associates, P.A. and are signed by Brian P. Murphy, NJPE #42000. The drawings are dated 11/13/2023 with a revision date of 05/03/2024.

**WHEREAS**, the Applicant seeks Preliminary and Final Major Site Plan approval associated with the construction of a 3-story, 91,650 SF self-storage facility (Building 1), and a one-story 85,167 SF mixed-use (Building 2) involving 73,686 SF of warehouse, 11,254 SF of office space and 227 SF utility room on the subject property; and

**WHEREAS**, proposed site improvements include new driveway connections to Route 9, circulation aisles, off street parking, lighting, landscaping, stormwater management and all typical site plan development improvements; and

**WHEREAS**, the Property is an 11.75 acres partially wooded parcel located on the East side of Lakewood Road (NJSH Rt. 9) within the LI-Light Industrial Zoning District; and

**WHEREAS**, the site has been previously developed with various principal and accessory structures all of which are designated to be removed;



**WHEREAS**, it has been determined that the application, at this time, falls under the jurisdiction of the Board; and

**WHEREAS**, although the Applicant has not requested any specific variances, the following were identified as required by the Board Engineer:

- a. **Off-Street Parking for Building 1 – Section 348-8.20:** 61 Spaces Required, whereas 11 spaces are proposed; and

**WHEREAS**, the Board Planner also identified design waivers that would be required:

- a. **Landscape and Buffer Standards – Section 348-8.24:** Corridor Landscaping Buffer, minimum ornamental trees; requirement – 8; proposed 7.
- b. **Solid Waste Storage – Section 348-8.27:** Minimum landscaping width along enclosure – 5' required; less than 5' proposed – landscaping proposed exceeds the minimum width requirements but is not provided on all sides of the refuse enclosures; and

**WHEREAS**, prior to said hearing, the Board had an opportunity to review the Engineer's P/F Major Site Plan – Review #1 dated March 27, 2024 and Review #2 dated August 30, 2024 of the Board's Consulting Engineer, Douglas F. Klee, of Owen, Little & Associates, Inc., as well as TMP review dated March 14, 2024 of the Township Forester, Shari M. Spero, LTE, and ARH Associates Reports dated March 28, 2024, July 11, 2024 and August 21, 2024 of the Board's Consulting Planner, Christine Winter, PP, AICP, which reports are attached hereto and incorporated by reference; and

**WHEREAS**, the Applicant was represented by John Doyle, Esq. of Carluccio, Leone, Dimon, Doyle & Sacks, 9 Robbins Street, Toms River, New Jersey 08753; and

**WHEREAS**, the Applicant submitted the following evidence in support of the application:

- **Exhibit A-1** – Google Earth Aerial photo.
- **Exhibit A-2** – Color Rendering of Site Plan.

**WHEREAS**, Mr. Doyle described the application; and

**WHEREAS**, the Applicant submitted the following testimony in support of the application:

1. Brian Murphy, P.E. of FWH Associates, PC, 1856 Route 9, Toms River, New Jersey 08755, who was qualified by the Board as an expert witness in civil engineering and planning:
  - a. Mr. Murphy referred to Exhibits A-1 through A-2 during his testimony.

- b. Mr. Murphy described the Property as an existing lot that is part of the original Reich Farm that is 11.75 acres in the LI -Light Industrial Zone.
- c. Mr. Murphy testified describing the neighborhood and surrounding area, which consisted of single-family homes, Carl's Fencing, Route 9, LE-ED Concrete, and various shopping centers.
- d. Mr. Murphy testified that access would be off Route 9 and is controlled by DOT.
- e. Mr. Murphy testified that the building to west is a self-storage building (91,650 sf) and the building to east would be a 85,167 SF mixed-use (Building 2) involving 73,686 SF of warehouse, 11,254 SF of office space and 227 SF utility room).
- f. Mr. Murphy testified that sewer and water are readily available.
- g. Mr. Murphy testified that stormwater will be privately owned and comply with all requirements. CAFRA approval has already been obtained.
- h. Mr. Murphy testified that as to the 60' buffer along the properties to the northeast and east, this will be provided.
- i. Mr. Murphy testified that signage will comply. He further stated that as to trash, no outdoor trash is proposed for the self-storage building as this generally encourages dumping and there will only be office trash. Trash enclosure on either end for the warehouse building.
- j. Mr. Murphy testified that lighting will comply and be shielded as necessary as to glare.
- k. Mr. Murphy stated as to the operations, the self-storage will be Monday through Friday, 8:00 a.m. to 6:00 p.m., Saturday, 8:30 a.m. to 5:00 p.m. and Sunday will be closed. There will be one attendant. The access will be from 6:00 a.m. to 10:00 p.m. (not 24-hour access) and by access code.
- l. Mr. Murphy testified that no hazardous materials will be allowed to be stored and no work on vehicles outside.
- m. Mr. Murphy stated that as to parking, overall, there are 157 parking stalls required, and the proposal is 114 parking stalls. The warehouse requires 96 stalls, and the applicant is providing 122 stalls. The deficiency is the self-storage and Mr. Murphy asserted that the Code looks at self-storage similarly to a warehouse. Eleven (11) parking stalls will be proposed for the self-storage building as in accord with industry standard for self-storage facilities, where 61 would be required as a warehouse.
- n. Mr. Murphy testified that no solar is proposed on the roof.



- o. Mr. Murphy testified that there would be no substantial detriment to the public good or the Master Plan. The parking is more than sufficient for its use.
- p. Mr. Murphy testified that the impact on the community was negligible.
- q. Mr. Murphy stated that a few design waivers were requested by the Applicant. As to curb radius, 5' required, 4' in a couple locations by the self-storage building. Off-street loading zones, requirement 12' x 35', 10' around the self-storage building. Berming along Route 9, design waiver as to ornamental trees. Design waiver requested as to solid-waste storage in that trash area landscaping not provided on one side facing Carl's Fencing.
- r. Mr. Murphy indicated that the Applicant would comply with technical comments with Board Planner and Township Forester letters, as well as Board Engineer, except for Paragraph C.2 as the State is conducting all improvements along Route 9.
- s. Board Engineer verified that curb is State, DOT project on Route 9 and Applicant will construct the sidewalk. Additionally, Board Engineer questioned the longer RV/Boat parking stalls and Applicant's Planner indicated those six spots would be dedicated to vehicles.
- t. Board Attorney inquired as to the prior objectors from the May meeting and any ongoing title issues with the Property;

**WHEREAS**, the Applicant's Architect was available to testify but the Board indicated that such testimony was not required; and

**WHEREAS**, Attorney for objectors/adjoining property owners, Vincent DelRiccio, Esq. indicated that the adjoining property owners to whom he represented, supported the application and withdrew and objection as to procedure or title issues; and

**WHEREAS**, no other persons testified regarding this application; and

**WHEREAS**, no other members of the public testified or commented as part of this application; and

**WHEREAS**, the Board finds the applicant's expert credible, accepts the testimony presented and so finds; and

**WHEREAS**, the Board has determined that the Applicant should be granted Preliminary and Final Major Site Plan Approval, with the requested variance and design waiver relief for the following reasons:

1. The granting of the application will not have a substantial detriment to the public good and will not substantially impair the intent and purpose of the Zone Plan, Master Plan, and Zoning Ordinances of the Township;
2. The positive criteria outweigh the negative, if any;
3. The safety and well-being of the immediate area will not be adversely affected by the proposed development; and

**WHEREAS**, based upon the proofs submitted by the Applicant, the Board concludes that the design standards being waived present a practical difficulty and would otherwise impose unnecessary hardships upon the Applicant; and

**WHEREAS**, the Board is satisfied that the Applicant has submitted sufficient proof to grant the relief requested; and

**WHEREAS**, the Board is satisfied that the variance requested meets the requirements of C(1) criteria in accordance with its zoning; and

**WHEREAS**, the Board finds that the application as presented is essentially compatible with the other lots located in the zone; and

**WHEREAS**, the Applicant stipulated it will comply with the conditions set forth in the review letters of the Board Engineer, the Board Planner, and Township Forester in addition to the conditions set forth hereinabove; and

**WHEREAS**, it appears that all requisite fees and real estate taxes have been paid in full to date.

**NOW, THEREFORE, BE IT RESOLVED** this 6<sup>th</sup> day of November, 2024, that the Applicant's request for Preliminary and Final Major Site Plan Approval; and

**BE IT FURTHER RESOLVED** that the Applicant is hereby **Granted** the following variance relief:

- a. **Off-Street Parking for Building 1 – Section 348-8.20:** 61 Spaces Required, whereas 11 spaces are proposed; and

and the Applicant is hereby **Granted** the following design waiver relief:

- a. **Landscape and Buffer Standards – Section 348-8.4E(6):** Corridor Landscaping Buffer along Route 9.
- b. **Solid Waste Storage – Section 348-8.27:** Minimum landscaping width along 3 sides of an enclosure – 5' required; landscaping proposed exceeds the minimum width requirements but is not provided on all sides of the refuse enclosures.
- c. **Off Street Loading – Section 348-8.19:** minimum dimensions are 12' x 35'; proposed 10' instead of 12' for self-storage.



- d. **Curbing radii for all internal curbing:** 5.0 ft minimum radius required; 4' ft proposed in some areas around self-storage building; and

said variance relief and waiver relief be and is hereby approved subject to the Applicant's compliance with all terms and conditions set forth in the preamble of the Resolution, and the Applicant's compliance with the review letter(s) of the Board's consulting professional(s), except as modified herein; and

**BE IT FURTHER RESOLVED** that all the conditions imposed in the preamble of this Resolution be and hereby are incorporated herein by reference as expressed in the conditions of approval; and

1. The receipt by the Applicant of all approvals and compliance with all permit conditions from any Federal, State, County or local regulatory agency having jurisdiction over this application. Upon receipt of such approvals, the Applicant shall provide a copy of any permit or written evidence of approval to the Board and its professional staff. If any agency requires a change in the plans approved by the Board, the Applicant must reapply to the Board for approval of that change.
2. The Applicant shall provide a statement from the Toms River Township Tax Collector that all taxes are paid in full as of the date of this Resolution and as of the date of the fulfillment of any conditions in this Resolution and the failure to provide such a statement shall render this Resolution null and void *ab initio*.
3. Installation and approval of or posting of performance guaranties of the site plan for the installation of those improvements which are necessary to protect adjacent property and the public interest in the event that development of the site was not completed.
4. Ocean County Planning Board approval.
5. Township Bureau of Fire Prevention approval. The Applicant shall submit the final plans with the latest revision for review and the issuance of an approval letter by the Bureau of Fire Prevention.
6. Township Sewerage Authority and/or Municipal Utility Authority approval.
7. NJDEP CAFRA approval, if required.
8. NJ DOT approval.
9. If another governmental agency grants a waiver or variance of a regulation, the Board shall have the right to review that issue as it relates to this approval granted by the Board and modify or amend same.
10. Submission of additional print of the plot plan and attachments for distribution, if required.
11. Payment of required Design Waiver fees.

12. When improvements are required in public rights-of-way, evidence of a comprehensive general liability insurance policy is required by §348-6.12C(19) of the Township Code, indemnifying and saving harmless the Township of Toms River and its agencies, employees, and agents from liability for any acts of the developer or his agents, contractor, or employees in the implementing of the approved site plan. The insurance policy shall provide for 30 days written notice to the Township prior to cancellation. It shall be a violation of this Resolution and the Township Code for any property owner, developer, or builder to carry on the construction of the site without having obtained the aforesaid insurance and having current valid evidence of same on file with the Township.

13. Publication by the Applicant of a Notice of the Decision.

14. The Applicant shall make payment to the Board for all professional fees and administrative fees extended or expended with regard to this application.

15. Any significant changes or alterations to the approved plans, as determined by the Board Engineer or Zoning Officer, shall require submission of a new application to the Board for review and approval.

16. Applicant shall comply with affordable housing obligations, as applicable to the development:

- a. If residential, the number of affordable units shall be as determined by the Township pursuant applicable legal authority.
- b. If solely residential market units, a residential development fee applies.
- c. If an inclusionary development, both affordable and market units are included, then the development fee does not apply because affordable units will be provided.
- d. If a mixed residential and commercial development and the residential portion is not inclusionary, then both a residential and non-residential development fee applies to each portion of the development.
- e. If solely a commercial development, then the non-residential development fee applies.
- f. If the development includes affordable units, then the units must be subject to an affordable housing deed restriction in favor of the Township which must be recorded prior to the first Construction Permit being issued.
- g. If the development includes affordable units, then the bedroom and income mix income must follow the Uniform Housing Affordability Control regulations.
- h. If the development includes affordable units, then the units must be marketed and the tenant's income qualified by the Township's Affordable Housing Administrator and the income and unit mix must comply with UHAC.
- i. If the development includes affordable housing, then a copy of the Resolution should be sent to the Special Affordable Housing Counsel.

17. If applicable, the Applicant shall comply with the requirements of the New Jersey Economic Stimulus Act of 2009, effective July 27, 2009, and the Non-Residential Development Fee Act of 2008, effective July 17, 2008; and the Applicant must submit a complete and accurate State of New Jersey Form N-RDF, together with an executed copy of this Resolution of approval



to the Construction Department as a condition of the issuance of certificate of occupancy even if an exemption to pay a non-residential development fee is being sought.

18. The Applicant shall comply with all provisions of the reports of the Board's professional engineer, professional planner, and Township Forester except as modified herein.

19. The Applicant shall comply with all representations made before the Board by its attorney, engineer and other expert witnesses as the Board has specifically relied upon those representations in granting the approvals set forth herein. Failure to comply with such representations will render any approvals herein null and void *ab initio*.

20. If required, the Applicant shall obtain certification by the Local Soil Conservation District of a plan for soil erosion and sediment control in accordance with N.J.S.A. 4:24-39, et seq., commonly known as the "Soil Erosion and Sediment Control Act."

21. The Applicant shall obtain a tree removal permit, if required.

22. All materials, methods of construction and details shall be in conformance with the current engineering and building requirements of the Township of Toms River.

23. Unless administratively approved by the zoning office or board engineer, the Applicant shall resubmit this entire proposal for re-approval should there be any deviation from the terms and conditions of this Resolution, or the documents submitted as part of this application, all of which are made a part hereof and shall be binding on the Applicant.

24. The Applicant shall post an inspection fund with Township Clerk in an amount to be determined by the Township Engineer.

25. All new construction shall comply with minimum municipal ordinance standards.

26. All future site clearing shall be coordinated with the Township Forester.

27. Should the quantity of trees to be removed be greater than the tree replacement/landscaping plan due to limited available planting area the Applicant shall comply with the requirements of Township Ordinance Section 348-12.9 (I).

28. Prior to the issuance of a construction permit, the Applicant shall furnish the Township Clerk with a cash bond and performance guarantee in an amount to be determined by the Township Engineer.

29. All future signage shall comply with the Township Ordinance.

30. The hours of operation of all businesses on the Property shall comply with the Township Ordinance.

31. All documents required to be prepared by the Applicant by virtue of the terms or provisions of any conditions set forth in this resolution shall, before execution, be submitted to and approved by the Board Attorney and Board Engineer.

32. In accordance with N.J.S.A. 40:55D-49, preliminary approval of a major site plan shall be protected for a three-year period; extensions on such preliminary approval may be granted by the Board for an additional one year not exceeding a total extension of two years.

33. In accordance with N.J.S.A. 40:55D-52, final approval of a major site plan shall be protected for a two-year period; extensions on such final approval may be granted by the Board for an additional one year not exceeding a total extension of three years.

34. The specific conditions noted herein are an integral part of the basis for which the approval is being granted and are intended to be inseparable from the right of enjoyment of this approval.

**BE IT FURTHER RESOLVED** that the Applicant shall cause to be published a Notice of Decision pursuant to the provisions of the Board and N.J.S.A. 40:55-10(i) and provide an Affidavit of Publication to the Secretary of the Board.

#### CERTIFICATION

I, Lucia Lynch, Secretary of the Planning Board of the Township of Toms River, County of Ocean, State of New Jersey, do hereby certify that the foregoing Resolution was duly adopted by the Board Members of said Planning Board at its meeting held on November 6, 2024.

  
LUCIA LYNCH, Secretary, Toms River Planning Board