

**RESOLUTION  
SUBDIVISION/SITE PLAN COMMITTEE  
PLANNING BOARD  
TOWNSHIP OF LIVINGSTON, *NEW JERSEY***

Decided: December 2, 2014

Re: Application No. 2014-58-MS  
Applicant: Cedar Street Livingston LLC  
Premises: Block: 3000; Lot: 1.01  
156 East Cedar Street  
Zone: R-6

WHEREAS, application has been made by Cedar Street Livingston LLC (“Applicant”) to the Planning Board of the Township of Livingston (“Board”) for Minor Site Plan approval of installation of three (3) emergency power generators at 156 East Cedar Street (“Site”); and

WHEREAS, the Board has a Subdivision/Site Plan Committee (“Committee”), pursuant to §170-3 of the Code of the Township of Livingston, with jurisdiction to determine whether an Application meets the definition of “minor” and, if so, to take final action of approval or disapproval of such Application; and

WHEREAS, the Committee has, on December 2, 2014, determined that the Application is an application for Minor Site Plan approval and that notice and public hearing are therefore not required; although the meeting of the Committee has been noticed; and

WHEREAS, a completed Application has been filed, the fees required by the Township Code have been paid, and it otherwise appearing that the jurisdiction and powers of the Board and the Committee have been properly invoked and exercised, that the Application is in compliance with all statutory requirements and proof has been submitted that there are no taxes due or delinquent with respect to the Site; and

WHEREAS, the Applicant was represented by Stephen A. Geffner, Esq. and the planned improvements were explained by Applicant’s representatives Nina Simon and Michael Goldberg and by Matt Murello, P.E.; and

WHEREAS, the Committee has reviewed the site plan check lists and does now grant waiver of items numbers 7, 8, 11, 15 through 26, 28, 29 and 30, and has reviewed all plans and other documents submitted by the Applicant, including the 4 September 2014 report of Lewis D.

Goodfriend & Associates, and the Falcon Group plans dated 9/29/14; and has also reviewed the September 18, 2112 recommendation of the Township's Fire Chief and the December 1, 2014 memorandum of the Township Engineer.

WHEREAS, the Applicant agrees to the conditions of approval set forth herein;

NOW, THEREFORE, the Committee does make the following findings of fact and conclusions of law with respect to the Application:

1. Approval of natural gas emergency generators does not require a variance.
2. Installation of three (3) such generators; one (1) at each of three (3) multi-unit residential buildings on the Site is approved subject to the following conditions:
  - A. The generators at the buildings designated a Building 1 and Building 3 on the plans shall each have an 80kW capacity and be installed in a level 2 enclosure with a critical muffler having a sound level of 72 dB(A) at 23 feet.
  - B. The generator at Building 2 shall have a 120kW capacity and be installed with a hospital muffler having a sound level of 80 dB(A) at 23 feet, plus an additional enclosure acceptable to the Township Engineer to further reduce the level of sound generated.
  - C. At no property line of the Site shall the sound level generated by any generator exceed 65 dB(A).
  - D. The generator at Building 3 shall be screened on three sides by a cinder block wall faced with brick consistent with that building and acceptable to the Township Engineer. The other generators shall have protective fencing acceptable to the Township Engineer.
  - E. Each generator shall also have deer resistant landscaping.
  - F. No generator shall be tested between 5:00 P.M. and 9:00 A.M.
  - G. After installation of the generators, Applicant shall submit to the Township Engineer certification by an acoustical engineer acceptable to the Township Engineer that the sound generation limit conditions have been met.

- H. Applicant shall revise the plans to show these agreed conditions and to comply with all comments and recommendations of the Township Engineer in his December 1, 2014 memorandum and shall reply in writing to that memorandum.
- I. No permits shall be issued until Condition H has been met.
- J. Numbers 6, 8,10, 11 and 19 the Board's Model Conditions of Approval attached hereto are hereby incorporated herein.



Richard Dinar, Chairman  
Subdivision/Site Plan Committee



Peter M. Klein, Chairman  
Planning Board

I hereby certify this to be a true and accurate copy of the Resolution adopted by the Subdivision/Site Plan Committee of the Planning Board of the Township of Livingston on December 2, 2014 by the affirmative votes of Members Richard Dinar, Peter Klein, Samuel Ratner and Alternate No. 2 Wishnew (in place and stead of Member Meade).



Jackie Coombs-Hollis  
Planning Board Secretary

PLANNING BOARD  
MODEL CONDITIONS OF APPROVAL

**6. Final Plans**

Prior to the issuance of any Township permit for demolition of any structure, preparation of the Site, or construction of any improvement:

- a. The full text of all of the conditions of this approval, and all plan changes agreed to in the course of the hearing, shall be set out on final plans submitted to the Construction Official, the Township Engineer and the Board Secretary; and

b. Such final plans shall have been reviewed by the Board Secretary or the Board's Planning Consultant for determination of whether the plans conform to the Board's approvals and shall then have been signed by the Board Chairman, the Board Secretary and the Township Engineer.

c. Such final plans shall comply with the Uniform Construction Code and the Barrier Free Subcode as then in force in the State of New Jersey. If, during performance of work pursuant to the Board's resolution and permits that have been issued, field conditions indicate need for change(s), such need shall be called to the attention of both the Construction Official and the Township Engineer for approval of any such change before it is implemented. If any such change is significant, permission to amend the Site Plan may have to be sought from the Planning Board. Until all requirements under approved plans and the Uniform Construction Code, including accessibility requirements, have been completed or bonded, any certificates of occupancy issued shall be temporary certificates only.

## **8. Guarantees and Bonds**

a. The approval of this Application is subject to the posting, with terms acceptable to the Township Engineer, of any and all required performance guarantees, bonds, soil erosion and sediment control approvals, and any other requirements of Township ordinances prior to the issuance of any permits for commencement of site preparation or construction.

b. This approval is also conditioned upon the Applicant's providing, prior to issuance of the first Certificate of Occupancy, a performance guarantee acceptable to the Township Engineer for any aspects of the approved landscaping or fencing that has not been completed by the time of issuance of such certificate.

## **10. Noise**

a. No site preparation, demolition or construction activity shall be performed on the Site on Sundays, or before 7:30 a.m. or after 5:00 p.m. on weekdays, or before 9:00 a.m. or after 5:00 p.m. on Saturdays or federal holidays.

b. All vehicles and motorized machinery operated on the Site shall be equipped with properly operating mufflers.

c. No site preparation, demolition or construction activity (other than authorized blasting) shall produce, at the property line, (i) continuous airborne sound at a

sound level in excess of 65 dBa, or which has an octave band sound pressure level in decibels which exceeds the standards provided in 32 N.J.R. 2230 et. seq., or (ii) impulsive sound in air which has a peak sound pressure level in excess of 80 decibels, or (iii) impulsive sound in air which repeats more than four times in any hour and has a peak sound pressure level in excess of 50 decibels.

- d. Relief from these noise conditions may be permitted, temporarily, by the Township Engineer upon his finding that a circumstance constituting an emergency exists and necessitates such permission.

#### **11. Other Governmental Approvals**

- a. Applicant shall comply with all applicable Federal, State and local laws and regulations and obtain any other governmental approvals required for implementation of this application as approved. If any other governmental agency or authority grants a waiver of or variance from any law, rule or regulation, or imposes any condition or requirement, which affects this approval or any of the conditions contained herein, then this Board shall have the right to review such action as it relates to this Board's approval or conditions and to modify, amend or revoke its approval and/or conditions.
- b. No Township permit for demolition of any structure, or preparation of the Site or construction of any improvement shall be issued until proof of request for such required approvals and any action thereupon, shall have been presented to the Construction Official and the Board Secretary by the Applicant.

#### **19. As-built Plans**

A final Certificate of Occupancy shall not be issued until the Applicant shall have submitted to the Construction Official four (4) properly signed and sealed copies each of as-built site plans.