

ZONING BOARD, TOWNSHIP OF LIVINGSTON

Model Conditions of Approval
(As Amended through
October 25, 2022)

Every application turns on its own facts and is judged on its own merits. Listed below are models of conditions which may be considered “standard”. A standard can be tailored to specific circumstances, and may not always apply. Other or additional conditions may be tailored for any application.

1. Architecture

- a. Rooftop ancillary structures and equipment (other than alternative small energy systems and communications equipment) shall be screened by material compatible with the exterior finish of the building and matching the exterior color of the building as closely as possible.
- b. Enclosures of trash bins, recycling bins or dumpsters shall be of the same type of materials and the same color as the exterior finish of the building.

2. Blasting

In the event that blasting be necessary on the Site, the following conditions apply in addition to all requirements of federal law or regulations:

- a. All blasting operations must be performed in strict compliance with N.J.S.A. 21:1A-128 *et seq.* and N.J.A.C. 12:190-1.1 *et seq.*, or superseding requirements.
- b. A pre-blast inspection of all structures on all properties adjacent to the Site or within 200 feet of the intended blasting location (whichever is the greater distance) must be conducted at Applicant’s expense. It must be conducted no more than 60, nor less than 30, days before blasting commences. A written report of the inspection results must be provided to the owner of each structure inspected within 10 days after completion of the inspection.
- c. Any blasting must occur only between 10:00 a.m. and 3:00 p.m. on Monday through Friday. Blasting during other hours may be permitted, temporarily, by the Township Engineer upon his finding that a condition constituting an emergency exists and necessitates such permission.
- d. Applicant must coordinate all blasting with the Livingston Police and Fire Departments. If traffic control is required, it shall be provided at Applicant’s expense.

- e. Applicant must give the Township Engineer, the Chief of Police, the Fire Chief, and all owners of structures required to be inspected under “b” above, written notice of scheduled blasting operations to be received not less than 20 days, nor more than 40 days, prior to their commencement. If scheduled blasting operations are delayed or suspended they must not be resumed until new notice has been given and received. All notices must include the name and telephone number of Applicant’s representative for purposes of receiving and responding to questions and comments.
- f. These conditions do not supersede any requirements of law or regulation that are more strict or restrictive.

3. Cleanliness During Demolition or Construction

- a. At the close of each work day, or as required by the Construction Official or Township Engineer, but in no case less often than weekly, the Site must be thoroughly cleaned. Dumpsters must be removed from the Site, and replaced, before they overflow.
- b. Not less often than weekly, and whenever else required by the Construction Official or the Township Engineer, the public streets adjacent to the Site must be manually or mechanically broom swept to remove dirt, mud or debris originating from the Site and located within 500 feet of the Site.
- c. Dust suppression methods acceptable to the Construction Official and the Township Engineer must be utilized on the Site.

4. Deeds & Easements

- a. All conditions of approval that are continuing conditions ~~shall~~ **[must]** be set forth within all deeds executed with regard to the Site.
- b. All deeds, final plats, easements, dedications or restrictions required by this approval must be submitted for review and approval by the Board Attorney prior to signing and filed for recordation after such approval. The Applicant must submit proof of such recordation to the Board Secretary, the Township Engineer and the Construction Official prior to the issuance of any permits.

5. Detention Basins / Stormwater Management Systems

- a. Stormwater management basins shall be established on lots created for that purpose only. No structures that are not an approved part of the stormwater

management system shall be erected on any such lot. Such basins, together with their required landscaping and fencing, must be completed, and have been inspected and approved by the Township Engineer, prior to issuance of the first Certificate of Occupancy.

- b. If the approval of the Application calls for title to such a lot to be transferred to the Township; at such time as the Township accepts any new streets or roads on the Site, title to the lot shall be conveyed to the Township provided that the Township Engineer is then satisfied that the basin has been constructed in full compliance with all applicable requirements. The deed conveying such title must be subject to prior approval by both the Board Attorney and the Township Attorney.
- c. A maintenance plan meeting the requirements of the Residential Site Improvement Standards or the Township's Stormwater Control Ordinance, or both, as applicable, must be prepared by Applicant and shall have received the approval of the Township Engineer prior to issuance of any construction permit. Any future revisions to the maintenance plan must not become effective until the Township Engineer's approval shall have been obtained.
- d. Unless maintenance of the basin is assumed by the Township or a public agency as its direct responsibility, the maintenance plan and any future revisions of it must be recorded upon the plat or deed of record for the property in terms approved in advance by both the Board Attorney and the Township Attorney.

6. Final Plans

Prior to the issuance of any Township permit for demolition 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, must be set out on final plans submitted to the Construction Official, the Township Engineer and the Board Secretary; and
- b. Such final plans must 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 then have been signed by the Board Chairman, the Board Secretary and the Township Engineer.
- c. Such final plans must 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), every such need must 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 Zoning 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.

7. Flood Hazards

- a. Insert on the final site plan and/or subdivision map or plat a metes and bounds description of all flood hazard areas located on the Site.
- b. Insert in all deeds for individual lots that contain or are adjacent to flood hazard areas, and on the preliminary and final subdivision maps or plats, the following covenant: “The lands designated herein contain flood hazard areas. There shall be no disturbance of any kind as to any flood hazard area unless permitted by N.J.D.E.P. pursuant to the Flood Hazard Control Act, N.J.S.A. 58:16A-50 *et. seq.* or superseding requirements.”

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.

9. Landscaping & Environmental Protection

- a. All plantings on the site must be as depicted on a Landscape Plan approved by the Board.
- b. Street shade trees must be planted as required by Township Code § 170-72 and are not to be included in the calculation of Replacement Trees required by the Trees Ordinance.
- c. Any tree or other planting installed in accordance with the plans which dies must be replaced, within the current or next planting season, in kind and at the

same size as it had reached at the time of death; except that if it died more than three years after planting its replacement need not be larger than the size it had reached three years after planting. The same replacement requirements will apply to any tree or other planting installed in accordance with the plans if subsequently removed because of damage or disease.

- d. No tree existing on the Site at the time of filing of the application may be removed unless removal is approved under the Trees Ordinance or by this Board. Every existing tree to be preserved must be tagged and be shown on the Site Plan or Subdivision Plan. During site preparation and during construction, each such tree must be protected by snow fencing or a more substantial means approved by the Construction Official. No soils, excavated materials, or any construction equipment or building materials, will be stored or operated within a protection zone the greater distance of (i) the crown drip line, or (ii) a distance equal to caliper multiplied by one (1) foot, (but never less than eight (8) feet from the trunk of a tree to be preserved), or anywhere else where such soil or materials can adversely affect the health of trees to be preserved. All work done within the root protection zone must be accomplished with hand tools.
- e. The grade of land located within the root protection zone must not be raised or lowered more than three (3) inches unless compensated for by welling or retaining wall methods; but in no event shall welling or retaining walls be installed less than eight (8) feet from the trunk of a tree.
- f. During site preparation or construction, fuel storage, refueling, maintenance, repair or washdown of construction vehicles or equipment, must not occur within fifty (50) feet of any tree to be preserved.
- g. Any provision of the Trees Ordinance, Chapter 306 of the Code of the Township of Livingston, that establishes a conflicting standard or requirement shall control.
- h. Mulch must not be placed, or allowed to accumulate, within six inches of the trunk of any tree or shrub planted on the Site in compliance with this Resolution. Mulch must not be applied, or allowed to accumulate, elsewhere within the drip line of the tree or shrub to a depth in excess of four inches.

10. Noise

- a. Site preparation, demolition or construction activity must not be performed on the Site on Sundays, nor 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 must be equipped with properly operating mufflers.

- c. At all times, the Township Noise Ordinance, Chapter 200 of the Code of the Township of Livingston, or any superseding State requirement, must be complied with during site preparation, demolition or construction.
- 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 must 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 has 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 will be issued until proof of request for such required other governmental approvals and any action thereupon, have been presented to the Construction Official and the Board Secretary by the Applicant.

12. Paving and Sidewalks

- a. Applicant must install the top course of street paving:
 - (1) For residential development not later than the earlier of three (3) years after the issuance of the first Certificate of Occupancy or three (3) months after fifty percent (50%) of residential units have received Certificates of Occupancy.
 - (2) For non-residential or mixed-use development, prior to issuance of the first Certificate of Occupancy.
- b. All manholes, catch basins, and driveway curbs must be ramped until the top course of street paving has been installed.
- c. All sidewalks must be constructed in accordance with Chapter 269 Standard Specifications and Chapter 274 Streets and Sidewalks (or successor provisions) of the Code of the Township and shall be not less than four feet wide in a residence district or five feet wide in the Business Improvement District. Existing sidewalks that do not meet prior Township Code requirements shall be replaced to the standard

for the new sidewalks.

13. Signs

The Board retains jurisdiction over any and all signs until the final Certificate of Occupancy has been issued.

14. Traffic and Parking Safety and Enforcement

- a. At the time of applying for a building permit the Applicant must submit proof of having filed a written request pursuant to, and in accordance with, N.J.S.A. 39:5A-1, requesting that N.J.S.A. 39:1-1 *et seq.* be made applicable to the roads, streets, driveways, parking areas, etc. within the Site. The Applicant must provide proof of the governmental action on such request to the Construction Official prior to issuance of the final Certificate of Occupancy.
- b. Lines of sight established for entrance and exit driveways of the Site must be shown on the as-built site plans, and no structures, trees or plants that would interfere with such lines of sight will be permitted at any time.
- c. All traffic and parking provisions in the approved site plans or otherwise required by the Board's resolution-must be accomplished prior to issuance of the first Certificate of Occupancy.
- d. The Applicant must comply with State law and applicable Township ordinances regarding handicapped parking and must maintain such spaces and all the condition of use, traffic, and parking, signage and markings on the Site in good order and repair.

15. Utilities for Site Plans and Major Subdivisions

Applicant must construct all utilities underground as required by law, and must submit to the Engineering Department a written instrument from each serving utility evidencing full compliance with this condition and with Township Code §170-73.A.(17) before issuance of any Certificate of Occupancy.

16. Wetlands

- a. Applicant must insert on the final subdivision map, plat, deed, or site plan a metes and bounds description of all wetlands, wetlands transition areas, and buffers on the Site.

- b. Where applicable, each deed for a lot, and the subdivision plat, must contain the following language: “The lands designated herein contain wetlands and wetlands transition areas. There must be no disturbance of any kind as to any wetlands or wetlands transition areas unless permitted by N.J.D.E.P. pursuant to law, and Best Management Practices (as defined in N.J.A.C. 7:7A-1.4 or superseding requirements) for prevention or reduction of adverse impacts upon or pollution of wetlands, wetlands transition areas and buffers shall be followed at all times. This restrictive covenant is required to run with the land and be binding upon the grantees, their heirs and successors and assigns.

17. Developer’s Agreement

Prior to issuance of any permit for site preparation, or construction, the Applicant must have entered into a Developer’s Agreement with the Township negotiated with the Township Attorney in conjunction with the Township Engineer.

18. Written Response to Memoranda

Prior to issuance of any permit for site preparation, demolition or construction, the Applicant must have provided written responses to all issues raised in all memoranda from the Township Engineer, or any consultant to the Township, that were considered by the Board in the hearings.

19. As-built Plans

A final Certificate of Occupancy will not be issued until the Applicant has submitted to the Construction Official four (4) properly signed and sealed copies each of as-built site plans, surveys and building elevations.