

**RARITAN TOWNSHIP BOARD OF ADJUSTMENT**

**DCXDOCK RARITAN URBAN RENEWAL, LLC  
BLOCK 40, LOT 5.06  
408 US ROUTE 202**

**APPLICATION NO. BOA-20-2025**

**RESOLUTION DISMISSING APPLICATION WITH PREJUDICE**

**RESOLUTION NO. 2026-06**

**WHEREAS**, Woodmont Raritan Bronze, LLC applied for and obtained from the Raritan Township Planning Board (the “**Planning Board**”) preliminary and final site plan approval (the “**site plan approval**”) to construct a principally permitted warehouse (the “**warehouse**”) on Lots 4 and 5.01 in Block 40 which lots were subsequently merged into one another and assigned a new lot number, Lot 5.06 in Block 40 (the “**property**”), which site plan approval is memorialized in Planning Board Resolution No. 10-2024 adopted on July 24, 2024;

**WHEREAS**, the site plan approved by Planning Board Resolution No.10-2024 did not require any variances and did not include any exterior building signage, and the resolution included a condition (condition #2) that provides that “completion of the [warehouse] and subsequent use of the property shall be consistent with testimony offered at the public hearing, the findings and conclusions of the [Planning] Board herein, and the conditions set forth in [Resolution No. 10-2024”;

**WHEREAS**, Resolution No. 10-2024 includes as Planning Board finding #58: “The applicant has agreed to submit a compliance sign package for the [warehouse] to the Township Planner for review and approval”;

**WHEREAS**, the warehouse is under construction and has been leased to DCXDOCK Raritan Urban Renewal, LLC (the “**applicant**”), which intends to use the warehouse for two businesses operating as “Restaurant Depot” and “Jetro Cash and Carry”, and the applicant submitted an application to the Raritan Township Board of Adjustment (the “**Board**”) seeking “c” sign variance relief to allow the total square footage of wall mounted signage to exceed 100 square feet and to allow the total square footage of wall mounted signage to exceed 5% of the area of the warehouse facades facing the street (the “**application**”);

**WHEREAS**, after ascertaining that notice of the hearing was duly provided so that the Board had procedural jurisdiction over the application, the Board commenced a hearing on the application on December 18, 2025;

**WHEREAS**, although the Board had procedural jurisdiction over the application, the consensus of the Board was that the applicant needed to apply to the

Planning Board for relief from what the Board believed was a condition of the Planning Board resolution, namely, that all warehouse signage had to be fully compliant with all signage requirements set forth in the applicable Township ordinances, so that the Board did not have subject matter jurisdiction over the “c” sign variance application;<sup>1</sup>

**WHEREAS**, the applicant requested at the end of December 18, 2025 hearing session that the hearing be continued to February 5, 2026 to give the applicant the opportunity to determine whether to submit an application to the Planning Board or maintain the current application with the Board and the Board agreed and continued the application to February 5, 2026 without the need for further notice;

**WHEREAS**, by letter dated January 20, 2026 from the applicant’s attorney, Justin A. Marchetta, the applicant requested to carry the hearing to the Board’s March 19, 2026 meeting;

**WHEREAS**, by letter dated February 11, 2026, the applicant’s attorney, Justin A. Marchetta, advised that the applicant “withdraws its application”;

**WHEREAS**, the Board concludes that Sansone Olds Cad., Inc. v. Shrewsbury Borough Board of Adj., 211 N.J. Super. 304, 310 (Law Div. 1986), holds that an applicant does not have the unfettered right to withdraw an application, and a request to withdraw an application is subject to the discretion of the Board. In as much as the Board is a quasi-judicial body, the Sansone court held that “selective application” of the New Jersey Court Rules was appropriate. *Id.* at 311. Specifically, the Court noted Rule 4:37-1(b) which provides that an action may be dismissed at a party’s request “only by leave of court and upon such terms and conditions as the court deems appropriate.” *Id.* at 312. The Court noted that a dismissal under R. 4:37-1(b) calls for an evaluation of “any prejudice which would result to the litigants, as well as the public interest.” *Id.* at 312.

**WHEREAS**, Board Rule 2:4-7, titled “Dismissal of Applications” provides in relevant part:

Any applicant may, at any time before the commencement of a hearing, voluntarily withdraw his or her application, in which case, the application shall be dismissed without prejudice. After commencement of a hearing, a voluntary dismissal may be taken only with the approval of the Board in which case the Board shall

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<sup>1</sup> The Board concludes that the general rule is that relief from, or modification of, a condition imposed by a land use board should be heard by the board that imposed the condition. Amato v. Randolph Planning Board, 188 N.J. Super. 439, 447 (App. Div. 1982); Park Center v. Woodbridge Zoning Board of Adj., 365 N.J. Super. 284, 291 (App. Div. 2004). As such, if the applicant applies to and obtains relief from the Planning Board condition, the Planning Board would also have ancillary subject matter jurisdiction over the “c” sign variances by virtue of the “one-stop shopping” provisions of the MLUL, See, N.J.S.A. 40:55D-20 and N.J.S.A. 40:55D-60a. Assuming that no “d” type variance was required, the Board would have subject matter jurisdiction over the “c” sign variances only if relief from the Planning Board condition is not required and amended site plan approval from the Planning Board is not required.. See, N.J.S.A. 40:55D-20, N.J.S.A. 40:55D-70c, and N.J.S.A. 40:55D-76b.

dismiss the action with or without prejudice depending on the circumstances of the particular case. The Board reserves the power to impose reasonable terms and conditions on any dismissal of an application made after commencement of the hearing on the application.

**WHEREAS**, the Board finds and concludes that, in accordance with the Sansone case and Board Rule 2:4-7, it should dismiss the application without prejudice and without the imposition of conditions in as much as no prejudice will result to the public;

**NOW, THEREFORE, BE IT RESOLVED** by the Board, by motion duly made and seconded on February 19, 2026, as follows:

1. The application is hereby dismissed without prejudice.
2. A signed copy of this resolution shall be mailed to the applicant and the applicant's attorney and the property owner and notice of its adoption shall be published in the official newspaper of the Township.

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**THOSE IN FAVOR: SCHAEFER, DAMJI, BLOCK, FARSIU, FERRARO, KUHL-BRENGEL & KRATINA.**

**THOSE OPPOSED: NONE.**

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I hereby certify that the above resolution was adopted on February 19, 2026.

**ATTEST:** Taylor Vaughn  
**TAYLOR VAUGHN, Board Secretary**